
CHAPTER 314**CO-OPERATIVE SOCIETIES**

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CHAPTER 314

CO-OPERATIVE SOCIETIES

An Act respecting the registration, supervision and management of Co-operative Societies, the members of which have a common bond of philosophy and social and economic objectives *15 of 2005*

[Assent 29th September, 2005]

[Commencement 4th October, 2005]

1. This Act may be cited as the Co-operative Societies Act. Short title.

2. In this Act — Interpretation.

“Apex Body” means a National League or other like body for co-operatives established for the purposes of section 115;

“board” means the board of directors or other directing body to whom the management of the affairs of a society is entrusted;

“bonus” means the equitable return to a member of a co-operative society from net profits after the payment of reserves and dividends in proportion to the production of goods and services by the co-operative during the preceding financial year;

“bye-laws” means the registered bye-laws made by a society pursuant to this Act and includes a registered amendment to the bye-laws;

“co-operative society” means a body corporate registered under this Act which has as its object the operation of any enterprise or service on a co-operative basis or on a basis which, in the opinion of the Director of Societies is substantially similar to a co-operative basis;

“deposits” means savings placed with a society that may be withdrawn on demand;

“director” means a member of the board of a co-operative society;

“Director of Societies” means that person appointed under section 6;

“dividend” means a payment made to members from the net surplus subsequent to retained earnings becoming positive and statutory reserves having been deducted;

“equity shares” means those shares held by a member that are in excess of the qualifying shares, the value of which are prescribed by bye-laws;

“management” means persons who are employed by the board to manage, or such committee so designated by the board;

“Minister” means the Minister responsible for co-operatives;

“patronage refund” means the returns to members from net profits, allocated in proportion to the volume of business each individual has done with the co-operative during the financial year;

“provisional directors” means members of the Steering Committees who will hold office after registration, and until the board of directors is elected at the first annual general meeting;

“qualifying shares” means the minimum number of shares required for membership in a registered society, such minimum to be prescribed by the bye-laws; and

“society” or “registered society” means a co-operative registered under this Act.

Reference to Registrar General.

3. In this Act, a reference to the Registrar General shall also be construed as a reference to any other public officer who has the responsibility for the receipt and registration of documents relating to registered societies.

Application of Act and use of the word “Co-operatives”.

4. (1) This Act applies to societies which are registered under this Act or deemed, by virtue of section 187 to be registered under this Act.

(2) No person other than a registered society shall trade or carry on business under any name or title of which the word “Co-operative” or “Co-operation” or any abbreviation thereof or the words “credit union” or “credit unions” or any abbreviation thereof, is a part.

5. For the purposes of this Act, a society conforms to the co-operative principles if — Co-operative principles.
- (a) no member or delegate has more than one vote;
 - (b) no member or delegate is entitled to vote by proxy;
 - (c) its business is carried on primarily for the benefit of its members;
 - (d) its membership is voluntary and available without any artificial restriction or any unlawful basis of discrimination to any person who can use its services and is willing to accept the responsibilities of membership;
 - (e) the limit on the interest or dividends on share capital that it pays does not exceed the prescribed rate;
 - (f) any surplus or savings out of the co-operative's operations is used for one or more of the following purposes —
 - (i) to develop its business;
 - (ii) to provide or improve common services to members;
 - (iii) to be distributed among members in proportion to their patronage with the society;
 - (iv) to educate its members, officers or employees or the general public in the principles and techniques of economic and democratic co-operation;
 - (v) to be contributed to non-profit charitable benevolent organisations;
 - (vi) to be contributed to equity until total equity equals 10% of total assets; and
 - (vii) co-operation with other co-operatives is pursued.

PART I - REGISTRATION OF SOCIETIES

6. (1) There shall be a Director of Societies who shall perform such functions and shall have such powers as prescribed by this Act. Director of Societies and Staff.

(2) The Director of Societies shall have such professional and administrative staff as are determined by the Minister.

Functions of
Director of
Societies.

7. (1) The Director of Societies shall perform the following functions —

- (a) the registration of all societies;
- (b) the supervision of all societies;
- (c) the initiation and encouragement of organised activities for the development of societies;
- (d) the management of the Department of Co-operative Development; and
- (e) ensuring that records are kept up-to-date and that reports from societies are current.

(2) The Director of Societies may, in writing delegate a function specified in subsection (1) other than the function specified in paragraph (e), to an individual or organization and a function so delegated shall be performed in such a manner as the Director of Societies may determine.

Application for
registration.

8. (1) No society may commence or continue business unless it is registered under this Act.

(2) Subject to subsection (3), an application for registration under this Act must be submitted to the Director of Societies in the prescribed form.

(3) An application for registration under this Act must be signed —

- (a) in the case of a society of which no member is a registered society, by at least ten members who satisfy the requirements for membership;
- (b) in the case of a society of which a member is a registered society, by an authorised person on behalf of every such registered society, and where all the members of the society are not registered societies by at least ten other members;
- (c) in the case of a society of which all the members are registered societies, by at least two such societies.

(4) An application made pursuant to subsection (1) shall be accompanied by —

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- (a) three copies of the proposed bye-laws of the society;
 - (b) the prescribed application fee; and
 - (c) such other information with respect to the society as the Director of Societies may require.

9. (1) Subject to subsections (2) and (3), no group may be registered or no society having been registered may continue to be so registered under this Act —

Conditions for registration.

- (a) unless its membership consists of individuals who are fifteen years and older;
- (b) unless it is considered to be economically viable by the Director, having assessed the demand for its proposed services, the potential size of the society, the capital base and the membership use;
- (c) unless there is conformity among membership, none of which is another society, with all co-operative principles as set out in section 5;
- (d) unless the word “co-operative” forms a part of the name of each such society, and a society whose membership falls within the description contained in subsection (2) is called a junior co-operative society;
- (e) unless the word “limited” is the last word of the name of a society to be registered with limited liability;
- (f) if the name of the society is identical with that of another registered society or which so nearly resembles that name as to be likely to mislead the members of the public as to its identity;
- (g) unless it has and maintains an address to which all notices and communications may be sent;
- (h) unless its bye-laws are in conformity with this Act; and
- (i) unless, within a reasonable time after the issue of the certificate of registration, the society paints or affixes its registered name in letters easily legible in a conspicuous position on the outside of every office or place in which the business of the society is carried on.

(2) Notwithstanding subsection (1), the Director of Societies may register as a Junior Co-operative or Junior Society, a group, the substantial majority of whose members are under the age of fifteen years.

(3) In the case of a producer or service co-operative its membership must consist of at least ten members and in the case of a credit union, its membership must consist of at least thirty members.

Registration of a Society.

10. (1) Once the Director of Societies is satisfied that the application is made in accordance with this Act, he shall register the society and its bye-laws and issue that society with a certificate of registration in the prescribed form.

(2) The Director of Societies shall cause the name under which a society is registered —

- (a) to be published in the Gazette; and
- (b) to be noted in the register known as the “Register of Societies” and which shall be kept at the office of the Director of Societies.

(3) Where the Director of Societies refuses to register a society he shall give the applicant reasons in writing for the refusal.

Effect of registration.

11. (1) A society comes into being on the date inscribed on the certificate of registration.

(2) A certificate of registration issued by the Director of Societies to a society is admissible in evidence as conclusive proof that the society named in the certificate is registered pursuant to this Act and has complied with all the requirements for registration under this Act.

(3) A society registered under this Act has the capacity to carry on its business in accordance with its bye-laws.

(4) No society may engage in any business other than that which is connected with its objectives or which is reasonably incidental thereto.

A society to be a body corporate.

12. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its bye-laws.

13. A society registered under this Act shall conform to the co-operative principles as set out in section 5.

Society to conform to co-operative principles.

14. (1) Every society shall have its certificate of registration prominently displayed at its registered address.

Display of certificate.

(2) Without prejudice to subsection (1), there shall be made available at all reasonable times at the registered address of the society —

- (a) a copy of this Act and any regulations made thereunder;
- (b) a copy of the bye-laws of the society; and
- (c) the register of members and such other records as may be prescribed.

15. (1) Subject to this Act, the Director of Societies may by order in writing suspend the registration of a society if the Director of Societies is satisfied that —

Suspension and cancellation of registration.

- (a) the society is in breach of any condition of registration;
- (b) the society is in breach of any requirement of section 13 or 14;
- (c) the society or any officer, board or committee member thereof has failed or refused to comply with any obligation imposed by this Act, the regulations or bye-laws; or
- (d) the society or any officer, board or committee member thereof has failed or refused to comply with any order or request made by the Director of Societies under this Act.

(2) The Director of Societies may by order in writing cancel the registration of any registered society if —

- (a) at any time it is proven that the number of members has been reduced to less than thirty members who are above the age of fifteen years in the case of credit unions and ten for other co-operatives;
- (b) it is proven that the registration has been obtained by fraud or mistake, but cancellation under paragraph (a) shall not apply to a society which includes among its members one or more registered societies.

(3) An order under subsection (1) or (2) shall take effect from the date of the order.

(4) No suspension or cancellation may be made by the Director of Societies until he has given the society an opportunity to be heard, and any suspension may not exceed twelve months.

(5) Where after a period of suspension a society has not rectified the circumstances leading to its suspension, the Director of Societies may cancel the registration of that society.

(6) Where the registration of a society is cancelled by order under this section the society shall, except for the purpose of winding up, cease to exist as a body corporate from the date on which the order takes effect.

Board of
Directors.

16. (1) Every society shall be directed by a board which shall be constituted in accordance with the bye-laws of the society.

(2) A person may not constitute part of the management of a society who —

- (a) has been sentenced by a court in any country for any offence involving dishonesty and has not received a full pardon for that offence;
- (b) is in default of debts owed to a society or compounds with his creditors; or
- (c) is or becomes bankrupt.

Committees.

17. (1) Without prejudice to section 16, the members of a society in each year shall —

- (a) elect members to fill the vacancies on the supervisory committee; and
- (b) elect the majority of the members of the credit committee.

(2) The board shall appoint at least one member of the credit committee.

(3) Without prejudice to subsection (1), the board of a society may establish committees for the more efficient management of various aspects of the business or affairs of the society.

(4) A committee established for the purposes of subsection (3) may consist of a member of the board and other members of the society.

18. General meetings of members must be held in The Bahamas — General meetings.

- (a) at the place provided in the bye-laws; or
- (b) where the bye-laws contain no provision, at the place determined by the directors.

19. (1) This section does not apply to a society that is continued pursuant to this Act. Organisation of meeting.

(2) The provisional directors shall hold a meeting as soon as possible after the issue of the society's certificate of registration.

(3) The provisional directors may, at the meeting mentioned in subsection (2) —

- (a) pass resolutions establishing policies of the society;
- (b) adopt forms of corporate records;
- (c) authorise the issue of securities;
- (d) appoint officers;
- (e) appoint an auditor to hold office until the first general meeting of the members;
- (f) make banking or other financial arrangements;
- (g) appoint authorised signing officers;
- (h) adopt operating policies; and
- (i) transact any business in addition to that described in paragraphs (a) to (h).

(4) A provisional director may call the meeting of directors mentioned in subsection (2) by giving not less than five days' notice of the meeting to each provisional director, stating the time and place of the meeting.

(5) The notice mentioned in subsection (4) may be waived where all provisional directors are in attendance at the meeting of provisional directors.

20. (1) Within one month of the date of its registration, a society shall hold a general meeting at which all members are entitled to be present and to vote and this general meeting shall be considered its first annual general meeting. First annual meeting.

(2) Notwithstanding subsection (1), where the directors apply to the Director of Societies, he may extend the time for holding the general meeting.

(3) The business at the first annual general meeting mentioned in subsection (1) must include —

- (a) the adoption of the bye-laws;
- (b) the election of directors; and
- (c) the appointment of an auditor.

(4) A society shall hold an annual general meeting in each year not later than five months after the end of the financial year of the society and within thirty days after acceptance by the board of directors of the annual audited financial report.

(5) The annual financial report must be made available to members at least seven days prior to the annual general meeting.

(6) The bye-laws may provide for holding semi-annual or other periodic meetings.

Special meetings.

21. (1) The directors may, at any time, call a special meeting of members.

(2) Subject to subsection (3), the directors shall call a special meeting of the members on receiving a written request, specifying the purpose of the meeting, from such number of members as may be specified in the bye-laws.

(3) The directors shall call the special meeting mentioned in subsection (2) within twenty days of receiving the written request and the special meeting is required to dispose of the specific business outlined in the request.

(4) The Director of Societies may call a special meeting of the society —

- (a) for the purpose of reporting to the members the results of any audit, examination or other investigation of the society's affairs ordered or made by him; or
- (b) where the society fails to hold an annual general meeting in accordance with subsection (1) or (2) of section 20, for the purpose of enabling members to secure any information regarding the affairs of the society that they are entitled to

receive pursuant to this Act and to deal with any matters affecting the society.

22. (1) A society shall give at least ten days' notice of an annual or special meeting to its members — Notice of meetings.

- (a) by sending the notice by mail to the members at the address given in the register of members;
- (b) by publishing the notice in not less than two issues of a newspaper circulated in The Bahamas and posting the notice in a place that, in the opinion of the directors, is prominent and accessible to members; or
- (c) by way of electronic media.

(2) Notwithstanding any other provision of this Act, where a society is required to send a statement, agreement, proposal or other document to its members with a notice of a meeting and decides to publish the notice of a meeting in a newspaper pursuant to paragraph (1)(b), the society shall —

- (a) in the notice, inform the members of the document, giving a description of the document that, in the opinion of the directors, is adequate to describe its nature; and
- (b) make a copy of the document available to any member or delegate who requests it.

(3) The notice of any special meeting must specify the purpose for which the meeting is being called.

(4) The proceedings or the business transacted at a general meeting are deemed not to be invalidated by reason only of the non-receipt by a member of notice of the meeting.

23. (1) Subject to subsection (2), for the purpose of determining members — Record date.

- (a) entitled to receive payment of a bonus or dividend;
- (b) entitled to participate in a distribution on liquidation,

the directors may fix in advance a date as the record date for the determination of members.

(2) The record date mentioned in subsection (1) is not to precede by more than fifty days the particular action to be taken.

(3) Subject to subsection (4), for the purpose of determining members entitled to receive notice of and to vote at a general meeting, the directors may fix in advance a date as the record date for the determination of members.

(4) The record date mentioned in subsection (3) is not to precede by more than fifty days nor less than eleven days the date on which the meeting is to be held.

(5) Where the directors do not fix a record date —

(a) the record date for the determination of members entitled to receive notice of and to vote at a general meeting is —

(i) the close of business on the day immediately preceding the day on which the notice is given; or

(ii) if no notice is given, the day on which the meeting is held; and

(b) the record date for the determination of members for any purpose other than that described in paragraph (a) is deemed to be at the close of business on the day on which the directors plan a resolution relating to that purpose.

Quorum.

24. (1) Subject to subsection (2), the quorum at any annual, general or special meeting of members is that fixed by regulations.

(2) Where a quorum is not present one hour after the time fixed for the commencement of an annual, general or special meeting of members, the Director of Societies shall summon a meeting at a time and place as the Director of Societies may determine but that meeting shall not be held less than fourteen or later than thirty days after the date of the originally scheduled meeting.

(3) At a meeting summoned by the Director of Societies pursuant to subsection (2) any number of members present at such meeting shall constitute a quorum.

Delegates.

25. (1) Where the bye-laws of a society provide for the nomination and appointment of delegates to a general meeting —

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- (a) the delegates shall exercise the powers of membership at any annual or special meeting; and
 - (b) any reference in this Act with respect to the exercise of any power mentioned in paragraph (a) shall be construed as a reference to delegates.
- (2) The members who elect delegates may, at a special meeting called for that purpose or at an annual general meeting —
- (a) remove the delegates in any manner provided for in the bye-laws; or
 - (b) notwithstanding subsection (1), amend the bye-laws to eliminate the nomination and appointment of delegates.

PART II - RIGHTS AND LIABILITIES OF MEMBERS

- 26.** (1) A person, other than a registered society, qualifies for membership of a society of his choice if that person —
- (a) is either a citizen or a resident of The Bahamas;
 - (b) has attained the age of fifteen;
 - (c) is of sound mind;
 - (d) has with the other members of the society some common bonds of philosophy, occupation or association or of residence in a defined neighborhood or district; and
 - (e) in the case of a Junior Co-operative, is a member of a school, youth club or any other like organization.
- (2) Subject to the approval of the Director of Societies —
- (a) a registered society may be a member of a society; or
 - (b) a person may be a member of more than one society with similar objectives.
- (3) A purchaser under any execution or any other person succeeding by operation of law or otherwise to the share or interest of another member in a society shall not

Qualifications for membership.

be entitled to membership by virtue only of such purchase or transfer.

(4) A person, including a minor, who is duly admitted membership shall enjoy all the rights of that society and shall be subject to all the liabilities of membership and any other liabilities existing in law.

(5) Without prejudice to anything contained in this section, provision may be made in the bye-laws of a society respecting membership.

Application for membership.

27. An application for membership of a society must be submitted to the board of the society in the approved form.

Membership fees and membership register.

28. (1) No person may exercise the rights of membership of a society unless and until he has paid the prescribed membership fee and has satisfied any other requirement which may be prescribed by the bye-laws.

(2) A registered society shall keep a register of members and shares in which shall be recorded —

- (a) the names and addresses of members and the number of shares held by each member; and
- (b) the date on which each member became a member, and the date if any, on which he ceased to be a member.

Withdrawal of membership.

29. (1) A member of a society may at any time withdraw from membership on such condition as may be prescribed by the bye-laws or regulations.

(2) Withdrawal from a society shall be by written notice addressed to the secretary of the board.

(3) Withdrawal from a society does not affect any existing liability of the member of the society.

Voting rights.

30. (1) There shall be no voting by proxy and subject to any provision in the bye-laws relating to the voting rights of members who are themselves other societies, a member of a society shall have one vote except where such member is the Chairman of any meeting of the society in which case if there is an equality of votes he shall have a casting vote in addition to his original vote.

(2) A society that is a member of another society shall exercise its voting rights in that other society through one of its members duly appointed in that behalf.

31. (1) Subject to this Act, the liability of a current member of a society is limited to the paid up amount of his qualifying and equity shares.

Liability of current and past members.

(2) The liability of a past member or the estate of a deceased member for the debts of a society as they existed on the date on which such member ceased to be a member or died shall continue for a period of two years after the cessation of membership or death.

PART III - BUSINESS OF SOCIETIES

32. (1) A registered society with a share capital may sell shares to its members but such shares shall have their par value set out in the bye-laws of the society.

Shares.

(2) Unless a society is required by law to have limited shareholding, a society shall have an unlimited number of equity shares.

(3) A society shall sell its shares at their par value.

(4) A society shall issue qualifying shares, and may issue equity shares.

(5) A share in a society is personal property and a shareholder is entitled to an annual statement showing the number of shares that he owns.

33. Where the liability of the members of a society is limited by shares, no member, except where a registered society is a member of that society, may hold more than one-fifth of the outstanding paid up shares of that society.

Limitations on shareholding.

34. Where a member of a society fails to transact business with that society for a period of one year, that member's qualifying shares and deposits accounts may be transferred to a dormant account that may be reactivated in a manner prescribed by regulations.

Dormant accounts.

35. (1) A share may be transferred to any other member at the option of the transferor, but where the transferee is not a member, the board, or the general meeting, according to the bye-laws relating to the admission of members must approve that transfer before the transfer can be registered.

Transfer of shares generally.

(2) A transfer of shares shall be effected in such form as the Director of Societies determines.

(3) No transfer of a share shall be valid and effective unless and until such transfer has been registered by the Secretary on the direction of the board.

(4) No transfer of a share shall be registered without the written permission of the board where that transfer is made by a member indebted to the registered society, and where that transfer of a share is registered by the transferee, any claim by the society upon the transferor is not affected by the transfer.

Transfer of shares of a member who is of unsound mind.

36. (1) Where a member or person claiming through a registered society is of unsound mind or is incapable of managing his affairs and no committee, receiver or guardian has been appointed, the society may, subject to this section and section 35, transfer the share or interest of such member to any person nominated by such member for the purposes of section 39 or may pay to the person nominated a sum representing the value of the share or interest of such member ascertained in accordance with subsection (5).

(2) Subject to subsection (3), if no nominee has been appointed, the society may pay a sum representing the value of the member's share or interest to the Registrar of the Supreme Court.

(3) If the value of the share or interest does not exceed five hundred dollars, the board may, subject to any conditions it thinks fit, pay the whole or any portion of such sum to the person who appears to have the care of such member or the management of his affairs.

(4) A transfer and payment made by a registered society in accordance with this section shall be valid and effective against any demand made upon the society by any person.

(5) For the purposes of this section, the value of any share or interest (including group insurance, where applicable) shall be represented by the sum actually paid for that share or interest by the member holding it unless the bye-laws of the society otherwise provide.

Lien on shares.

37. (1) A registered society has a lien on the shares or amount outstanding to the credit of a member or his legal representative for a debt due by that member or shareholder to that society.

(2) A registered society may enforce a lien mentioned in subsection (1) in the manner set out in its bye-laws.

(3) The board may, in default of payment by any member indebted to a registered society, apply the sum paid up for the time being on any equity shares or deposits held by the member in or toward the discharge of the debt so due and in any expense in or about the same, and the defaulting member shall cease to have any further claim in respect of such shares and or deposits.

38. (1) Subject to subsection (2), the transfer of a share or interest of a member or deceased member in the capital of a society shall be subject to such conditions as may be prescribed by or under this Act.

Restriction on transfer of shares or interest in capital.

(2) No share or interest or any part thereof in the capital of a society may be transferred unless the transfer is made to a member thereof or to a person whose application for membership has been accepted.

39. (1) A member of a society may, by instrument in writing signed by such member in the presence of two attesting witnesses and delivered at or sent to the registered office of the society during the lifetime of such member or made in any book kept at the registered office, nominate any person to or among whom there shall be transferred at his death such property in the society of which he is the owner at the time of his death, or as may have accrued thereon, whether in shares, or deposits, or so much thereof as is specified in such nomination if the nomination does not comprise the whole.

Power of nomination.

(2) A nomination made pursuant to subsection (1) may be revoked or varied by a subsequent nomination, signed, attested and delivered or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation signed by the nominator in the presence of two attesting witnesses and delivered, sent or made as aforesaid but any such nomination may not be revoked or varied by the will of the nominator or by any codicil thereto.

(3) All nominations and all revocations or variations thereof delivered or sent to a society shall be recorded in a book kept at the registered office of the society.

40. (1) Where a person has been nominated as beneficiary by a member in accordance with the bye-laws of a society and such nominee is admitted to membership

Transfer of share or interest on death of member.

in that society, the society shall within one year of the death of the member by whom the nomination was made, transfer the share or interest of the deceased member to the limit specified in subsection (4) to the nominee.

(2) Where no nominee is admitted to membership in the society or where the deceased member made no such nomination, the society shall within one year of the death of such deceased member pay to the nominee or legal personal representative of the deceased member as the case may be, such sum, not exceeding the said limit, representing the value or part thereof of the deceased member's shares or interest in the society.

(3) Nothing in this section shall be construed as prohibiting a nominee who has been admitted to membership from electing to receive payment representing the value of the deceased member's shares or interest instead of accepting a transfer.

(4) Subject to section 31, and unless prevented by order of a court of competent jurisdiction, a society shall pay such nominee or legal personal representative as the case may be, the sum due to the deceased member from the society.

Disposal of
produce through
society.

41. (1) A registered society which has as one of its objects the disposal of any article or produce obtained by the work or industry of its members, may by its bye-laws or otherwise contract with its members —

- (a) that every such member who produces any such article shall dispose of the whole or any specified amount, portion or description thereof to, or through the society;
- (b) that any member who is proved or adjudged to be guilty of a breach of the bye-laws or contract shall pay to the society liquidated damages in a sum ascertained or assessed in such manner as may be prescribed in the bye-laws.

(2) In the event of any breach or the intended breach by a member of any registered society of any provision of a contract made in accordance with this section, such society shall be entitled to an injunction to restrain such member, his agent and servants from selling or delivering the agricultural or manufactured products otherwise than in accordance with the contract and to a decree of specific performance of the said contract by such member.

(3) Pending the adjudication of any action brought by any society under this section and upon ex-parte application to the Supreme Court and upon evidence by affidavit of the breach or threatened breach and upon giving of suit or undertaking of security as may be approved by the Supreme Court, the society shall be entitled to an interim injunction restraining such breach or threatened breach.

(4) A contract entered into under this section shall not be questioned in any court on the ground only that it is a contract in restraint of trade.

42. (1) A person to whom money has been lent by a society or who is otherwise indebted to the society may be required to create a charge in favour of the society in such form as may be prescribed.

Creation of charge in favour of society.

(2) A charge shall, so long as it continues in force, confer on the society the following obligations —

- (a) the right upon the happening of any event specified in the charge as being an event authorising the chargee to seize the property subject to the charge to take possession of any property so subject;
- (b) after an interval of five clear days or such less time as may be specified in the charge from the date of taking possession of any property subject to the charge, to sell such property either by auction or, if the charge so provides, by private treaty and either for a lump sum or payment by installments;
- (c) to apply the proceeds of sale in or towards discharge of the debt secured by the charge and the costs of seizure and sale and to pay any surplus of such proceeds to the member whose property was sold.

(3) A charge shall, so long as it continues in force, impose on the member the obligation to pay to the society towards the discharge of his indebtedness the proceeds of sale of any property comprised in the charge or any money received under a policy of insurance or by way of compensation in respect of any such property, except insofar as the charge otherwise allows.

(4) For the avoidance of doubt, it is hereby declared that a charge under this section is not a bill of sale within the meaning of the Sale of Goods Act.

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Execution and
registration of
charge.

43. (1) A charge created under section 42 shall be duly executed if the person to whom money has been lent signs four copies of the document evidencing the charge in the presence of —

- (a) the secretary of the society and/or;
- (b) the manager or loan officer of the society.

(2) The secretary shall file one copy of the charge, transmit one copy to the Registrar General, one copy to the Director of Societies, and deliver one copy to the member.

(3) The Registrar General shall keep a book to be known as the “Registered Societies Charges Book” in which he shall register every charge transmitted to him by the society, and issue to the society a certified copy of the registration.

(4) The registration of a charge under subsection (3) shall constitute a first charge and security in favour of the society and shall be deemed to affect with notice any person dealing with property comprised in the charge.

(5) Where a loan or other indebtedness in respect of which a charge was created is discharged, the secretary, manager or loan officer of the society shall —

- (a) cause four copies of a document to that effect to be prepared indicating that the charge has been discharged;
- (b) file one copy of such document and transmit one copy to the Registrar General who shall forthwith make an entry of satisfaction in the Registered Societies Charges Book; and
- (c) deliver one copy to the Director of Societies and one copy to the member.

(6) Any person may, on payment of the prescribed fee, inspect the Registered Societies Charges Book and take extracts therefrom.

(7) Notwithstanding anything contained in this section, every charge subsisting at the commencement of this Act in favour of a registered society, shall be deemed to be registered in the Registered Societies Charges Book and any such charge shall, without prejudice to anything

contained therein, have the same force and effect as a charge created under this Act.

44. Nothing in section 42 shall affect —

- (a) any claim of the Government in respect of taxes or money recoverable as such or of a landlord in respect of rent or money recoverable as rent;
- (b) the rights of any bona fide purchaser for value without notice of the charge; or
- (c) the rights of any prior charge.

Claims etc. not affected by section 42.

45. (1) Subject to any claim in respect of debts due to the Government or to a landlord in respect of rent or any money recoverable as rent, any debt or outstanding demand to a society by a member or past member shall notwithstanding anything contained in section 42 be a first charge —

Prior claim in favour of society.

- (a) upon the crops or other agricultural produce whether standing or severed, raised in whole or in part with the loan from the society by such member or past member; and
- (b) upon any cattle or other livestock, fodder for the same, agricultural or industrial machinery or implements, or raw materials for use in manufacture or handicraft, or buildings used for the purposes of agriculture or industry, or fishing or fish processing equipment supplied to or purchased by such member or past member in whole or in part from any loan whether in goods or money granted him by the society.

(2) Any person dealing with any of the property specified in subsection (1) shall be deemed to have notice of such first charge and all such dealing shall be subject to the charge and priority created by this Act.

46. A society may enforce a charge by applying to a Magistrate of the district in which the member resides or carries on business or where the property subject to the charge is situated for a warrant of distress by certifying under seal to the Magistrate the amount due and particulars of the property so charged and the Magistrate shall issue a warrant of distress and may order the sale of the property by public auction or private treaty.

Enforcement of a charge.

47. (1) A society may borrow from any other society or from any bank approved by the Director of Societies on

Assignment of a charge.

the security of any charge executed and registered in accordance with section 43 and may for this purpose assign any such charge to the other society or bank.

(2) An assignment of a charge under this section shall be registered in the same manner as a charge under section 43 and that section shall apply *mutatis mutandis* to an assignment of a charge so registered.

(3) An assignment or charge when registered shall operate as a first charge in favour of the assignee subject to section 36.

(4) Where any charge is assigned to a society established with the object of facilitating the operations of other societies, that society may borrow from any bank approved by the Director of Societies and for this purpose may re-assign any such charge to such bank and subsections (2) and (3) shall apply *mutatis mutandis* to such re-assignment.

Bond as
additional
security for loan.

48. (1) A society may require a member or officer to give a bond with or without surety as additional security for repayment of any loan and any condition thereby imposed on the member or officer relating to the payment of capital and interest shall be strictly observed and performed and on breach of any such condition the bond shall be forthwith forfeited.

(2) Section 47 relating to the assignment of charges shall apply *mutatis mutandis* to the assignment of bonds.

PART IV - DIRECTORS AND OFFICERS

First directors.

49. (1) On registration of the society, the individuals whose names appear in the application for registration as having been appointed and having consented to act as provisional directors —

- (a) are deemed to have all the powers and duties of directors; and
- (b) shall hold office until the first general meeting.

(2) After the first general meeting, the directors must be appointed in accordance with the Act, the regulations and the bye-laws.

Directors'
powers.

50. (1) Subject to this Act, the regulations and the bye-laws, the board of directors, however designated, shall —

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- (a) exercise the powers of the society directly or indirectly through the employees and agents of the society; and
 - (b) direct the management of the business and affairs of the society.

(2) All directors must be citizens or residents of The Bahamas.

51. (1) The board of directors may, from time to time — Committees.

- (a) appoint from among its number any committee it considers necessary; and
- (b) by resolution delegate to any committee any powers that it considers necessary for the efficient conduct of the affairs and business of the society.

(2) A committee of directors that has powers delegated to it pursuant to subsection (1)(b) must consist of at least three directors.

- (3) A member of a committee holds office until —
 - (a) his removal by resolution of the board of directors;
 - (b) he ceases to be a member of the board of directors; or
 - (c) the dissolution of the committee.

(4) A committee may exercise any powers of the board of directors that are delegated to it by resolution of the board, subject to any restrictions contained in the resolution.

(5) Notwithstanding subsection (4), no committee of directors may –

- (a) fill a vacancy among the directors;
- (b) declare a bonus or dividend;
- (c) approve any financial statements of the society;
- (d) submit to the members any question or matter requiring the approval of members; or
- (e) make decisions where this Act or the bye-laws require a two-thirds majority or unanimous vote of the board of directors.

(6) A committee shall —

- (a) fix its quorum at a majority of its members;
- (b) keep minutes of its proceedings; and
- (c) submit to the board of directors, at each meeting of the board, the minutes of the committee's proceedings during the period since the most recent meeting of the board.

Election of
directors.

- 52.** (1) Subject to the regulations and the bye-laws —
- (a) the election of directors must take place annually at the annual general meeting, and the directors are eligible for re-election;
 - (b) the directors hold office until the conclusion of the meeting at which their successors are elected;
 - (c) where the number of nominees exceeds the number of directors to be elected, the election of directors is required to be by secret ballot;
 - (d) every member has the right to vote for the number of directors to be elected, and any ballot that contains the names of more than the number to be elected is void;
 - (e) where there is a vacancy on the board of directors, and —
 - (i) there is a quorum of directors, the remaining directors may exercise all the powers of the directors, or fill the vacancy until the next annual general meeting;
 - (ii) there is not a quorum of directors, the remaining directors shall call a general meeting for the purpose of electing members to fill any vacancies; and
 - (f) where there are no directors remaining, such number of members as may be specified in the bye-laws, may in writing appoint directors solely for the purpose of calling a general meeting to elect members to fill the vacant directorships or the Director of Societies may call such meeting.

(2) Where an election of directors required by this Act, the regulations or the bye-laws does not take place at the proper time, the directors then in office shall continue in office until their successors are elected.

53. An individual is not eligible to be a director if he — Qualifications of directors.

- (a) is less than eighteen years of age or, in the case of a junior co-operative he is less than sixteen years of age;
- (b) is of unsound mind and has been so found by a court in The Bahamas;
- (c) is not a member of the society or a duly appointed representative of a member society;
- (d) has the status of a bankrupt;
- (e) is an employee of the Department of Co-operative Development;
- (f) is an employee of a society, except where he is an employee in a workers' society; and
- (g) is thirty days or more in arrears in his obligations to the society.

54. (1) Subject to the bye-laws, directors of a society may without authorisation of the members — Borrowing powers.

- (a) borrow money on the credit of the society;
- (b) issue, re-issue, sell or pledge debt obligations of the society;
- (c) subject to section 48, give a guarantee on behalf of the society to secure performance of an obligation of any person; and
- (d) mortgage, charge, hypothecate, pledge or otherwise create a security interest in all or any property of the society owned or subsequently acquired, to secure any debt obligation of the society.

(2) A sale, or exchange of all or substantially all of the property of a society, other than in the ordinary course of business of the society, must be approved by the members in the manner provided in subsections (3) to (8).

(3) The directors shall send, in the manner provided in section 21, a notice of a special meeting to consider the sale, or exchange mentioned in subsection (2) to each member.

(4) The notice mentioned in subsection (3) must include or must be accompanied by a copy or summary of

the agreement of sale, or exchange mentioned in subsection (2).

(5) At a special meeting held pursuant to this section, the members may, by special resolution —

- (a) authorise the sale, or exchange mentioned in subsection (2); and
- (b) fix, or authorise the directors to fix, any terms and conditions of sale or exchange.

(6) Each member of the society has the right to vote with respect to a sale or exchange mentioned in subsection (2).

(7) A sale or exchange mentioned in subsection (2) is adopted when the members have approved the sale or exchange by a special resolution.

(8) A sale or exchange may be abandoned by the directors where they are so authorised in a special resolution by the members.

Meeting by
telephone etc.

55. (1) Subject to the bye-laws, where all the directors consent, a meeting of directors or a committee of directors may be held by means of —

- (a) a telephone system; or
- (b) a communication facility other than telephone, that permits all persons participating in the meeting to hear and speak to each other, and a person so participating is deemed to be present at that meeting.

(2) Unless this Act, the regulations or the bye-laws require a meeting, a resolution of the directors may be passed without a meeting where —

- (a) all directors are notified in writing, and two-thirds of them consent to the resolution in writing; and
- (b) the consent is filed with the minutes of the proceedings of the directors.

Minutes of
directors.

56. (1) The directors shall cause minutes to be kept of —

- (a) all appointments of officers and committee members made by them;
- (b) all the names of the directors present at each meeting of the directors; and

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- (c) all resolutions and proceedings at meetings of the society of the directors.
- (2) Every committee of the society shall cause minutes to be kept of —
- (a) the names of the committee members present at meetings of the committee; and
- (b) all proceedings and resolutions of the committee.
- (3) The directors shall cause true accounts to be kept of —
- (a) all sums of money received and expended and matters with respect to which the receipts and expenditures take place;
- (b) the assets and liabilities of the society; and
- (c) every other transaction affecting the position of the society.
- 57.** (1) A director of a society ceases to hold office when he — Ceasing to hold office.
- (a) dies or resigns;
- (b) is removed in accordance with section 58;
- (c) is no longer qualified pursuant to section 53; or
- (d) acts contrary to section 66.
- (2) A resignation of a director becomes effective at the latter of —
- (a) the time a written resignation is sent to the society; and
- (b) the time specified in the resignation.
- 58.** (1) Subject to the regulations and bye-laws, the members of a society may, by special resolution remove any director from office. Removal of directors.
- (2) A vacancy created by the removal of a director may be filled at the meeting of the members at which the director is removed or, where not so filled, may be filled pursuant to section 52(1)(e).
- 59.** (1) A director of a society is entitled to receive notice of and to attend and be heard at every meeting of members. Attendance at meeting.
- (2) Where a director —

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- (a) resigns;
 - (b) receives a notice or otherwise learns of a meeting of members called for the purpose of removing him from office; or
 - (c) receives a notice or otherwise learns of a meeting of directors or members at which another person is to be appointed or elected to fill his office, whether because of his resignation or removal or because his term of office has expired or is about to expire,

he is entitled to submit to the society a written statement giving the reasons for his resignation or the reasons he opposes any proposed action or resolution.

(3) A society shall immediately send a copy of the statement mentioned in subsection (2) to the Director of Societies and shall make available a copy of the statement to every member.

(4) No society or person acting on its behalf incurs any liability by reason only of circulating a director's statement sent in compliance with subsection (3).

Number of directors.

60. The members of a society may amend the bye-laws to vary the number of directors, but no amendment to decrease the number of directors affects an incumbent director.

Notice of change in directors.

61. (1) Within thirty days after a change in directors is made, a society shall send to the Director of Societies a notice in the prescribed form setting out the change and the Director of Societies shall file the notice.

(2) Notwithstanding subsection (1), where a society sends the annual return required from an election at an annual general meeting within thirty days after a change is made in its directors, it is not required to send the notice required in this section.

Meeting of directors.

62. (1) Subject to the bye-laws, the directors may meet at any place, and on any notice that they consider appropriate.

- (2) The president —
 - (a) may call a meeting of directors at any time; and
 - (b) on the written request of at least two directors, shall call a meeting within fourteen days of the receipt of the request.

(3) A majority of the directors constitute a quorum at any meeting of directors.

(4) Subject to the bye-laws, a notice of a meeting of directors need not specify the purpose of or the business to be transacted at the meeting.

(5) A director may in any manner waive a notice of a meeting of directors.

(6) For the purpose of subsection (5), attendance of a director at a meeting of directors is not deemed to be a waiver of notice of the meeting, unless the director attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called.

(7) Where the time and place of an adjourned meeting is announced at the original meeting, notice of an adjourned meeting of directors is not required to be given.

63. An act of a director or officer is valid notwithstanding an irregularity in his election or a defect in his qualification.

Validity of acts of directors and officers.

64. (1) No director and no member of a committee is entitled to be paid any remuneration in connection with his duties as a director or committee member on behalf of a society or his attendance at meetings.

Remuneration of directors.

(2) Directors and members of committees may be reimbursed for expenses incurred by reason of the performance of their duties and functions as directors or members of committees.

(3) A society may purchase and maintain insurance for the benefit of a director, member of a committee, officer or employee against a liability, loss or damage incurred by that person while serving the society in the capacity of director, member of committee, officer or employee.

65. Subject to section 70 and the bye-laws, the directors shall fix the salary of any employees appointed by them.

Remuneration of employees.

66. Every director and officer of a society in exercising his powers and discharging his duties shall —

Duty of care of directors and officers.

(a) act honestly and in good faith with a view to the best interests of the society; and

- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Misuse of
confidential
information.

67. A director or officer, or an associate of a director or officer, who, in connection with a transaction relating to shares of a society or a debt obligation of a society, makes use of confidential information for the benefit or advantage to himself or an associate that, if generally known, might reasonably be exercised to affect materially the value of the share or the debt obligation —

- (a) is liable to compensate any person for direct loss suffered by the person as a result of the transaction, unless the information was known or reasonably should have been known to the person at the time of the transaction; and
- (b) is accountable to the society for any direct benefit or advantage received or receivable by him or his associate, as the case may be, as a result of the transaction.

Liability of
directors.

68. (1) Where directors vote for or consent to, a resolution authorising or approving by any other means —

- (a) the purchase of shares contrary to section 76;
- (b) the payment of a dividend on shares contrary to section 84;
- (c) the payment of a bonus contrary to section 84;
- (d) a loan or guarantee or the giving of financial assistance contrary to section 77;
- (e) a payment of an indemnity described in section 69 to a director or a former director, without the approval of the court required by subsection (3) of that section; or
- (f) an act not consistent with the purpose of the society as set out in its bye-laws and with respect to which the society has paid compensation to a person,

the directors are jointly and severally liable to make good any loss or damage suffered by the society.

(2) On the application of a director, the court may declare whether or not, having regard to any of the circumstances the court considers appropriate —

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- (a) the society is insolvent; or
 - (b) the payment of a bonus or dividend or the lending of money would make a society insolvent.

(3) The liability imposed in subsection (1) is in addition to and not in derogation from a liability imposed on a director by another enactment or law.

(4) For the purposes of this section, a director who is present at a meeting of directors or of a committee of directors is deemed to have cast an affirmative vote, given consent to a resolution or given the approval mentioned in subsection (1), unless —

- (a) the director's dissent is entered in the minutes of the meeting; or
- (b) the director's written dissent is —
 - (i) delivered to the secretary of the meeting before its adjournment; or
 - (ii) delivered or sent by registered mail to the registered office of the society immediately after the adjournment of the meeting.

(5) A director who votes for a resolution mentioned in subsection (1) is not entitled to dissent under subsection (4).

(6) Where a director is not present at a meeting of directors or of a committee of directors at which a vote, resolution or approval mentioned in subsection (1) is cast or given, he is deemed to have cast an affirmative vote, consented to the resolution or given approval, unless, within fourteen days after becoming aware of the proceedings, the director delivers or sends by registered mail his written dissent to the registered office of the society.

(7) On receipt of a written dissent, the Secretary of the society shall —

- (a) certify on the written dissent the date, time and place it is received; and
- (b) keep the written dissent with the minutes of the meeting at which the resolution was passed.

(8) No action to enforce a liability imposed by subsection (1) is to be commenced after five years from the

date of the meeting at which the vote, resolution, or the approval was taken or given.

(9) In an action to enforce a liability imposed in subsection (1), the court may, on the application of the society —

- (a) join as a defendant a person who received a benefit as a result of the resolution complained of; and
- (b) make the person mentioned in paragraph (a) liable to the society jointly and severally with the directors to the extent of the amount paid to him.

(10) A director is not liable under subsection (1) where he —

- (a) proves that he did not know or could not reasonably have known that the act authorised by the resolution was contrary to this Act; or
- (b) relies and acts in good faith —
 - (i) on statements of fact represented to him by an officer of the society to be correct; or
 - (ii) on statements contained in a written report or opinion of the auditor of the society or a professional person engaged by the society who is competent to give advice in respect of the matter.

(11) A director who is found liable pursuant to subsection (1) is entitled to apply to a court for an order compelling a member or other recipient to pay or deliver to the director any money or property that was paid, distributed to the member, or other recipients contrary to sections 69, 76, 77 or 84.

(12) In connection with an application pursuant to subsection (11) and where the court is satisfied that it is equitable to do so, it may —

- (a) order a member or other recipient to pay or deliver to a director any money or property that was paid or distributed to a member or other recipient contrary to sections 69, 76, 77 or 84;
- (b) make any order, other than that described in paragraph (a), that it considers appropriate.

69. (1) Subject to subsections (2) and (3), a society may indemnify — Indemnification
of directors.

- (a) a director or officer of the society;
- (b) a former director or officer of the society; or
- (c) a person who acts or has acted at the request of the society as a director or officer of a body corporate of which the society is or was a member or a creditor, against costs, charges, and expenses including an amount paid to settle an action or satisfy a judgement, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of his being or having been a director or officer of the society or body corporate.

(2) A society may indemnify a director, officer, or other person only where that person —

- (a) acted honestly and in good faith with a view to the best interests of the society; and
- (b) in the case of a criminal, civil or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that the conduct was lawful.

(3) No society shall indemnify a director, officer or other person mentioned in subsection (1) with respect to an action by or on behalf of the society to obtain a judgement in its favour to which that person is made party by reason of his being or having been a director or an officer of the society, against costs, charges and expenses reasonably incurred by that person in connection with the action unless —

- (a) the society has the approval of the court; and
- (b) that person fulfills the conditions described in subsection (2).

(4) Notwithstanding subsections (1) to (3), a society shall indemnify a director, officer or other person mentioned in subsection (1) who has been substantially successful in the defence of a civil, criminal, or administrative action or proceeding to which that person is made a party by reason of his being or having been a director or officer of the society or body corporate against

costs, charges and expenses reasonably incurred by that person with respect to the action or proceedings.

(5) A society or a director, officer or other person mentioned in subsection (1) may apply to the court for an order approving the indemnity and the court may make the order.

(6) On an application pursuant to subsection (5) the court may order notice to be given to an interested person, and that interested person is entitled to appear and be heard in person or by an attorney-at-law.

Duty of a director not to be limited.

70. The provisions of a contract, the bye-laws or the circumstances of his appointment do not relieve a director from —

- (a) the duty to act in accordance with this Act and the regulations; and
- (b) liability that by virtue of a rule of law would otherwise attach to him with respect to negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society.

Material contracts.

71. (1) This section does not require the disclosure of an interest in a contract or transaction that is of a type available to and customarily entered into between the society and its members.

- (2) A director or officer of a society who —
 - (a) is a party to a material contract or proposed material contract with the society; or
 - (b) is a director or an officer of, or has a material interest in, a person who is party to a material contract or proposed material contract with the society,

shall disclose in writing to the society, or request to have entered in the minutes of meetings of directors, the nature and extent of his interest.

(3) The disclosure required by subsection (2) must be made in case of a director —

- (a) at the meeting at which a proposed contract is first considered;
- (b) if the director was not then interested in a proposed contract at the first meeting after he becomes so interested;

-
- (c) if the director becomes interested after a contract is made, at the first meeting after he becomes so interested; or
- (d) if a person who is so interested in a contract becomes a director, at the first meeting after he becomes a director.
- (4) The disclosure required by subsection (2) must be made in the case of an officer who is not a director —
- (a) forthwith after he becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of directors;
- (b) if the officer becomes interested after a contract is made, forthwith after he becomes so interested; or
- (c) where he has an interest in a contract before becoming an officer, immediately after he becomes an officer.
- (5) If a material contract or proposed material contract is one that in the ordinary course of the society's business would not require approval by the directors or members, a director or officer shall disclose in writing to the society or request to have entered in the minutes of meetings of directors the nature and extent of his interest after he becomes aware of the contract or proposed contract.
- (6) A director referred to in subsection (2) may take part in discussions to consider, or vote on a resolution to approve, a contract that he has an interest in, if the contract —
- (a) is an arrangement by way of security for money lent by him to the society or obligations undertaken by him for the benefit of the society or a member of the society;
- (b) is a contract for indemnity or insurance pursuant to section 69; or
- (c) is a contract with an affiliate.
- (7) Where a director is not entitled to vote at a meeting pursuant to subsection (2) and his presence is requested to constitute a quorum at a meeting of directors, a decision of the directors is deemed not to be invalid only by reason of the absence of the director.

(8) For the purpose of this section, a general notice to the directors by a director or officer declaring that he is to be regarded as interested in any contract made with that person is sufficient declaration of interest in relation to any contract made with that person.

- (9) Where —
- (a) a director or officer discloses his interest in accordance with this section; and
 - (b) the contract in which the director or officer has a material interest;
 - (i) is approved by the directors or members; and
 - (ii) is reasonable and fair to the society at the time it was approved,

the material contract is neither void nor voidable by reason only of that relationship or by reason only that a director with an interest in the contract is present at or is counted to determine the presence of a quorum at a meeting of directors or committee of directors that authorised the contract.

(10) Where a director or officer of a society fails to disclose his interest in a material contract in accordance with this section, a court may, on the application of a society or a member of the society, set aside the contract on any terms that the court considers appropriate.

Officers.

- 72.** (1) A society —
- (a) is required to have a chairman, officers and a secretary; and
 - (b) may have any officers in addition to those mentioned in paragraph (a) that are provided for in the bye-laws.
- (2) Subject to section 163 and to the bye-laws —
- (a) the directors may designate the officers of the society, appoint persons as officers, specify the officers' duties and delegate persons to manage the business and affairs of the society; and
 - (b) a director may be appointed to any office of the society.

(3) Subject to the bye-laws, no person shall be chairman or vice-chairman of a society unless he is a director of the society.

73. The directors of a society — Bond.

- (a) shall, in the case of a society that is organised and operated as a consumers' society as defined in section 143; and
- (b) may, in the case of any other society, require that every person appointed to an office who receives, manages or handles goods, wares or merchandise or manages or handles the expenditure of money on behalf of the society shall give to the directors, before commencing his duties as an officer, security or a bond in the prescribed amount.

74. A society may by resolution passed by a majority of the members at an annual or special meeting, require all directors and officers to sign annually or at any other time that may be specified in the resolution a declaration relating to — Declaration by directors and officers.

- (a) faithful performance of duties;
- (b) secrecy of transactions with members; and
- (c) faithful and loyal support of the society.

75. A declaration made pursuant to section 74 shall be filed within five days of the making thereof with the Director of Societies. Obligation to file declaration.

PART V - PROPERTY AND FUNDS OF SOCIETIES

76. A society may invest or deposit its funds — Deposit of funds.

- (a) in any registered society or bank approved by the Director of Societies;
- (b) in any securities issued or guaranteed by the Government;
- (c) in the shares or on the security of any other institution with limited liability approved by the Director of Societies; or
- (d) in any other manner permitted by the Director of Societies.

77. (1) A society may make advances by way of loans to its members. Loans by society.

(2) Except for a loan to another society, no loan may be made to a person who is not a member of that society.

(3) Loans to directors, committee members, employees, or associates thereof, and any limited company or partnership of which they are a principal stakeholder shall require approval as prescribed.

(4) No loan may be made to a director, committee member, employee or associate thereof, nor any limited company or partnership of which they are a principal stakeholder except to the extent determined in accordance with the credit policy applicable to the Society.

(5) A loan made in contravention of subsection (4) shall be void and shall be repaid to the society immediately.

Receipt of loans
and deposits.

78. (1) Subject to the provision of any bye-laws of a society, a society may receive deposits and loans from persons who are not members of the society for the purpose of meeting any of its obligations or discharging any of its functions under this Act.

(2) A society may by mortgage or in any other manner it deems appropriate guarantee the repayment of any sums received by it pursuant to subsection (1).

Receipt of
deposits from
minors.

79. (1) A society may receive deposits from a minor and pay to such a minor any such deposit together with the interest accrued thereon.

(2) Any deposit made on behalf of a minor may together with any interest accrued thereon be paid to the parent of the minor or, where the minor is under the care of a guardian to such guardian for the use of the minor.

(3) For the purposes of this section the mother of a minor born out of wedlock is the guardian of such infant except where —

- (a) there is subsisting a court order depriving her of the custody of such minor, in which case the guardian shall be the person named in the court order; or
- (b) the minor customarily resides with some person other than the mother in which case that person shall be the guardian.

(4) The receipt by a minor or his parent or guardian as the case may be, for money received under this section shall be a good and sufficient discharge of the liability of the society in respect of that money.

(5) Where a person under disability other than a minor is entitled to receive from a society any money whatsoever such money may be paid by the society —

- (a) to the Registrar of the Supreme Court to the credit of such person under such disability;
- (b) to the credit of such person under disability, and the receipt of the Registrar of the Supreme Court or of the person under disability, as the case may be, shall be a good and sufficient discharge of the liability of the society to pay that money.

(6) The Registrar of the Supreme Court may retain out of any money so paid to him a sum not exceeding one per cent thereof for fees of office and shall pay or apply the remainder to or for the care, maintenance, education or benefit of such person under disability.

80. A society shall not borrow funds in excess of the amount specified in its bye-laws.

Prohibition on borrowing.

81. (1) Where a society realises an annual profit from its transactions, that society shall establish and maintain a statutory reserve fund.

Statutory reserve, liquidity, development and stabilization funds, and disposal thereof.

(2) Every society shall be required to set aside the greater of one half of one percent of assets or twenty-five percent of surplus into a statutory reserve until that statutory reserve equals ten percent of the total assets of the society as shown in the audited financial statements for the financial year. Where a society cannot meet its statutory reserves allocation requirements, it may apply to the Director of Societies for an exemption.

(3) Every society shall ensure that the proceeds of the statutory reserves, liquidity, stabilization and development funds are deposited with and administered by the Apex Body in such a manner as may be prescribed by the regulations and bye-laws.

- (4) Every society shall ensure that —
 - (a) not less than ten percent of its members' deposits are kept in a liquidity reserve fund; and
 - (b) its statutory reserves, retained earnings and equity shares are at no stage, less than ten percent of its total assets, except during the phase in period as permitted by the regulations.

(5) Where an Apex Body has not been established or is not functioning as such, the liquidity, stabilization and development funds shall be administered by a person or body of persons as determined by the Director of Societies, after consultation with the respective societies.

Pension fund.

82. (1) A society may establish a contributory pension fund for its employees and may contribute to such pension fund.

(2) A pension fund established under subsection (1) shall not be considered part of the assets of the society but may be invested in such manner as may be prescribed by the bye-laws.

Contributions to a charitable co-operative purpose.

83. After making provision for doubtful loans and the prescribed payments to its statutory reserve and the stabilization and development funds, a society may contribute to any public cause, co-operative or charitable purpose.

Dividend, bonus, etc.

84. (1) Subject to this section and section 81, any surplus may be distributed by way of dividend, bonus, or patronage refund amongst its members in proportion to their shares and their patronage with the society at such rate as may be prescribed.

- (2) A registered society shall not —
- (a) pay dividend on shares or bonus or distribute any part of its accumulated funds before the financial statements have been certified by an auditor approved or appointed by the Director of Societies;
 - (b) pay a dividend or make any payment on account or out of profits unless the retained earnings are positive and equity is not less than ten percent of assets.

(3) A bonus based on wages or on the value of the products of a member or a patronage refund calculated in proportion to the amount of the business done by each member with the registered society may be distributed periodically to the members from surplus funds after the deduction of all expenditure and after making provision for bad and doubtful debts and making allocation for the statutory reserve, stabilization and development fund and dividends.

PART VI - AUDIT, INQUIRY AND INSPECTION

85. (1) The board of every society shall, at its own expense, cause the accounts of the society to be audited at the end of each financial year by an auditor approved by the Director of Societies or appointed by him under subsection (2) for that purpose. Audit.

(2) Upon the expiration of the period of three months after the end of the financial year, if the board has failed to effect an audit, the Director of Societies shall cause an audit to be carried out by an auditor appointed by him under subsection (3).

(3) Without prejudice to anything contained in subsections (1) and (2), the Director of Societies —

- (a) shall appoint a panel of auditors from which auditors may be selected by the co-operative for the purposes of an audit under subsection (1); and
- (b) may direct that the cost of the audit be defrayed by the society.

(4) An auditor appointed under subsection (3)(a) must be a member of the Bahamas Institute of Chartered Accountants, in good standing and must be in possession of a valid practicing certificate.

(5) The board of a society shall not cause the accounts of a society to be audited by the same auditor for a period exceeding six consecutive financial years.

(6) The audit shall include an examination of overdue debts, if any, the verification of cash balances and securities, and a valuation of the assets and liabilities of the society and any other examination consistent with international accounting standards.

86. (1) At least one month prior to its annual general meeting, a society shall submit to the Director of Societies a copy of the audited financial statements and a copy of its annual returns for the previous year. Annual and special returns.

(2) No later than one month after its reporting period, a society shall submit to the Director of Societies a monthly return.

(3) The Director of Societies may, by notice in writing, require a society, director or officer of a society to make a special return on any subject connected with the

business and affairs of the society and, when he requires a special return, he shall specify in the notice a time within which the special return is to be made.

(4) Any society that contravenes this section is liable to pay to the Director of Societies a special filing fee of five hundred dollars.

(5) The auditors appointed to carry out an audit shall have free access to the books, accounts, and vouchers of the society.

(6) The members of the board and the officers of the society shall furnish the auditors with all such information regarding the transactions and operations of the society as may be required.

(7) The Director of Societies and the auditors conducting an audit for the purposes of subsection (1) shall have power at the time of the audit —

(a) to summon any officer, agent, servant or member of a society or any other person, whom they have reason to believe can give valuable information regarding any transactions of the society or the management of its affairs; or

(b) to require any officer, agent, or member of the society or any other person to produce any book or document relating to any cash or securities belonging to the society.

(8) An audit —

(a) commissioned by the board of a society shall be completed within four months after the end of the financial year, and the audit report shall be submitted to the Director of Societies immediately by the board;

(b) commissioned by the Director of Societies shall be completed within three months after the receipt of the written commission from the Director of Societies, and the audit report and written comments and suggestions thereon, if any, shall be submitted to the Director of Societies who shall immediately transmit the same to the board of the relevant society.

(9) Upon receipt of an audit report and comments and suggestions thereon the board shall cause the same to

be brought to the attention of the members of the society in an appropriate manner.

(10) The Director of Societies may, in the exercise of his function of supervision of societies —

- (a) on his motion;
- (b) on the application of a creditor of a society;
- (c) in accordance with regulations made in that behalf, on the requisition of a society in respect of one of its members being itself a society;
- (d) on the application of a majority of members of the board or one third of the members of a society present and voting; or
- (e) on the recommendation of the apex organization,

hold an inquiry or cause an inquiry to be made, into the constitution, operations and financial position of any society and in the course of such inquiry may inspect the books, accounts and other records of the society and all officers and members of the society whether past or present shall furnish such information in regard to the affairs of the society and produce all cash in hand and such books, accounts, papers and securities of the society as the Director of Societies or other person conducting the inquiry may require.

(11) At the conclusion of an inquiry, if the Director of Societies is satisfied that the board has mismanaged the affairs of the society or otherwise performed its duties improperly, he may by notice to the society direct it to remedy the situation within six months from the date of such notice.

87. (1) The Director of Societies may apportion the cost of an inquiry, or any part thereof, between the society and the person requesting the inquiry, but no such apportionment may be made unless the parties liable to pay the cost of such inquiry are given an opportunity to be heard.

Cost of inquiry.

(2) Costs that are required to be paid by virtue of subsection (1) may be recovered from the persons liable to make such payment on the application of the Director of Societies to a Magistrate of the district in which the person resides or carries on business.

(3) Upon receipt of an application under subsection (2), the Magistrate may, if he is satisfied as to the matters stated in the application, issue a warrant of distress and order the sale of any personal property belonging to such party, but no such sale may be ordered until the expiration of five days from the date of the issue of the warrant.

Inspection by
director.

88. (1) The Director of Societies —

- (a) may on his own motion; and
- (b) shall on the application of a creditor of a society,

inspect or direct a person authorised by him and working in his behalf to inspect the books of the society if in the case of an application under paragraph (b) the applicant —

- (i) proves that an ascertained sum of money which is then due to him has been demanded from the society, and he has not received satisfaction within a reasonable time; and
- (ii) deposits with the Director of Societies such sum as security for the cost of the proposed inspection as the Director of Societies may require.

(2) The Director of Societies shall communicate the results of any such inspection to the creditor and to the society into whose affairs the inquiry has been made.

Investigations by
director.

89. (1) The Director of Societies may —

- (a) on his own motion; or
- (b) on the application of the lesser of twenty-five members or ten percent of the members,

appoint a person as examiner who shall make an examination of the books of the society and examine the affairs of the society and shall make available his report to the Director of Societies.

(2) Subject to subsection (3), the Director of Societies may direct that the expenses incidental to an examination undertaken pursuant to this section are to be defrayed —

- (a) by the members applying for the examination;
- (b) by the society or its officers; or
- (c) by any combination of the members, the society or its officers.

(3) When an examination undertaken pursuant to this section reveals substantial irregularities in the business of the society, the Director of Societies shall not direct any members on whose motion the examination was commenced to defray the expenses.

(4) Where the Director of Societies appoints an examiner pursuant to subsection (1), the society and its officers, members, agents or employees shall furnish the examiner with any books, accounts, securities or other documents the examiner requires to perform the examination.

90. (1) A member, or any interested person may apply *ex parte*, or on any notice that the Director of Societies may require, for an order directing any investigation to be made of the society and any of its member societies or corporations.

Request for special investigations.

(2) On application pursuant to subsection (1), the Director of Societies may order an investigation of a society or of any of its affiliates where it appears to the Director of Societies that —

- (a) the society is not fulfilling the purpose stated in its bye-laws;
- (b) the society is not carrying on business in accordance with this Act, the regulations or the bye-laws;
- (c) the society is not organized or being operated on co-operative principles;
- (d) the business of the society or any of its member societies is or has been carried on with intent to defraud any person;
- (e) the business or affairs of the society or any of its member societies have been carried on or conducted, or the powers of the directors have been exercised, in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of a member or security holder;
- (f) the society or any of its member societies was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose;
- (g) persons concerned with the formation, business or affairs of the society or any of its member

societies have acted fraudulently or dishonestly with the society; or

- (h) the society is operating in a fashion that, in the Director of Societies judgment threatens its solvency.

(3) An applicant for an order pursuant to this section is not required to give security for costs.

(4) An ex parte application pursuant to this section shall be heard in camera.

(5) No person shall publish anything relating to ex parte proceedings conducted pursuant to this section other than with the authorisation of the Director of Societies or the written consent of the society being investigated.

Dissolution of
board of a
society.

91. (1) Where the Director of Societies is of the opinion after an inquiry or inspection under section 89 or 90, respectively that the board of any registered society is not performing its duties properly, he may, after objections, if any and after considering such objections at a general meeting of the society summoned by him, by order in writing —

- (a) cause a new board to be elected;
- (b) direct that the affairs of the society shall be managed and administered by a suitable individual or organization; or
- (c) dissolve the board.

(2) Subject to subsection (3), every direction under paragraph (b) of subsection (1) shall have effect for such period not exceeding one year as may be specified in the order containing such direction.

(3) The Director of Societies may in his discretion from time to time amend the order for the purpose of extending the period during which the direction shall have effect.

(4) Where any order is made under subsection (1), the Director of Societies shall by the same or subsequent order appoint a fit and proper person or two or more such individuals or organization to manage and administer the affairs of the society, and may from time to time remove or replace any such appointee.

(5) Subject to the general direction and control of the Director of Societies, any appointee under this section to manage the affairs of a registered society —

- (a) shall have the power to recover the assets and discharge the liabilities of the society and take such other steps as may be necessary in its interest; and
- (b) may exercise all the powers, rights and privileges of a duly constituted committee of the society.

(6) Appointees under this section to manage the affairs of a registered society shall be jointly and severally responsible for any loss sustained through any such acts committed by them as are contrary to any enactment or the bye-laws of the society.

(7) The Director of Societies may fix the remuneration payable to any appointee by him under this section to manage the affairs of a registered society, and the amount of such remuneration and other expenses, if any, incurred in the management of the society shall be payable from the funds of the registered society.

(8) It shall be the duty of the appointee under this section to arrange for the election of a new board in accordance with the bye-laws of the society prior to the date upon which his appointment shall expire.

(9) No order under subsection (1) shall be made by the Director of Societies in respect of any registered society, if the society is indebted to any bank, financial institution, or creditor except after prior consultation with these institutions in regard to the dissolution of the board and to the persons by whom and the manner in which the affairs of the society are to be managed and administered.

(10) Nothing in this section shall be deemed to affect the power of the Director of Societies to cancel or suspend the registration of the society under section 15.

PART VII - DISPUTES

92. (1) Where any dispute that relates to the business of a society arises –

Settlement of disputes.

- (a) among members, past members and persons claiming through members, past members and deceased members;

-
- (b) between a member, past member, or claiming through a member, and the society, its board or any officer of the society;
 - (c) between a member and the society arising out of or under any bye-law relating to the disposal of the produce of agricultural or animal husbandry, or under any contract made under section 41;
 - (d) between the society and any other society;
 - (e) between the society or its board and any officer or employee of the society,

the dispute shall be referred to the Director of Societies for a decision.

(2) The Director of Societies may before proceeding to hear or determine a dispute, make or cause to be made a preliminary investigation with the object of ascertaining the causes, defining the issues and endeavouring to bring about a voluntary settlement between the parties to the dispute.

(3) Where a dispute is referred to the Director of Societies under subsection (1) he may —

- (a) decide the dispute himself; or
- (b) refer the dispute to an arbitrator or arbitrators appointed by him.

(4) For the purpose of hearing any dispute, the Director of Societies or arbitrator, as the case may be, may administer oaths and may require the attendance of all parties concerned and witnesses, and the production of all books, documents and things relating to the dispute.

(5) The Director of Societies or the arbitrator, as the case may be, shall also have the power to order the expenses of determining any dispute including fees to legal practitioners to be paid either out of the funds of the society or by such parties as he determines.

(6) A party aggrieved by a decision of the Director of Societies or an arbitrator may appeal to the Registered Societies Appeal Tribunal within such time and in such manner as may be prescribed.

(7) Where there is no appeal under subsection (6), the decision of the Director of Societies and an award of an arbitrator may be filed in the Supreme Court or in the Magistrate's Court for the district and shall be registered in

the court in which it is filed after the expiration of fourteen days after it is filed and registered, it shall be deemed to have the same force and effect as a judgement of the court in which it is registered and shall be enforced accordingly by the person who filed the decision or award.

(8) For the purposes of this section, the Chairman or other officer of the Apex Body may serve as an arbitrator.

(9) Notwithstanding anything in this section, a society may exercise any rights arising under any charges, mortgages, bills of sale or other securities duly executed in accordance with this Act or any other law without recourse to the Director or to arbitration.

(10) For the purposes of subsection (1), a claim by a society for a debt or demand due to it from a member, former member or a personal representative of a deceased member is a dispute that relates to the business of a society within the meaning of subsection (1).

93. (1) There shall be a Registered Societies Appeal Tribunal which shall consist of three persons, one of whom shall be an attorney-at-law of at least ten years standing.

Registered
Societies Appeal
Tribunal.

(2) The persons who shall constitute the Tribunal shall be appointed by the Minister for a period of not less than three years.

(3) The Tribunal shall have jurisdiction to hear appeals from a decision of the Director of Societies or an arbitrator.

(4) The decision of the Tribunal on a question of fact shall be final and may not be called into question in any court and shall be enforced in the same manner as if the decision had been a judgement of a civil court; but a decision of the Tribunal on a question of law may be appealed to the Supreme Court.

(5) The Minister may by order prescribe the procedure of the Tribunal.

(6) The members of the Tribunal shall receive such remuneration as the Minister determines, being not less than five hundred dollars per case.

94. (1) Notwithstanding anything contained in sections 92 and 93, the Director of Societies or an arbitrator may in the course of or making a determination in a dispute refer a question of law arising therefrom to the

Case stated on
question of law.

Supreme Court, by way of case stated for the opinion of that court.

(2) A Judge of the Supreme Court may consider and determine any question of law so referred.

PART VIII - RECONSTRUCTION OF SOCIETIES

Methods of
reconstruction.

95. (1) Reconstruction of a society may be effected by any of the following methods —

- (a) by the amalgamation with another society to form a single society;
- (b) by the transfer of the assets and liabilities of one society to another society; or
- (c) by the division of a society into two or more societies.

(2) Sections 96 and 97 shall have effect with respect to the procedure that must be followed in relation to paragraph (a) to (c) of subsection (1).

Conversion.
Ch. 308.
Ch. 313.

96. (1) A company registered under the Companies Act or registered under the Friendly Societies Act may by special resolution determine to convert itself into a registered society.

(2) Any such resolution for conversion into a registered society shall appoint ten persons, members of a company or friendly society as the case may be, who together with the Secretary, shall sign the rules and who may, by the resolution, be given powers to act on behalf of the company or friendly society as may be specified in such resolution.

Conversion
effective upon
issue of
certificate of
registration by
director.

97. A conversion under section 96 shall be deemed to be effective when the Director of Societies has issued a certificate of registration under this Act, and thereupon the registration of the company, industrial or provident society as such shall become void, and shall be cancelled by the proper officer, but the registration of any such body as a registered society shall not affect any right or claim for the time being subsisting against such body or any penalty incurred, and any such right or claim or penalty may be enforced against such body by proceedings taken in the same manner as if it had not become a registered society, and every such right or claim, and the liability for every such penalty shall have priority as against the property of

such registered society over all other rights or claims against, or liabilities of, the registered society.

98. (1) Any two or more societies may, with the approval of the Director of Societies, by a resolution passed by not less than three fourths of all the members of each society present and voting at a special meeting called for the purpose, amalgamate as one society.

Amalgamation of societies.

(2) Where the resolution referred to in subsection (1) is passed, each society shall apply to the Director of Societies for cancellation of its registration and the societies shall jointly make application for the registration of the amalgamated society.

(3) The registration of an amalgamated society shall be deemed to be sufficient to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

99. (1) A society may, with the approval of the Director of Societies, by resolution passed by not less than three-fourths of all the members present and voting at a special general meeting called for that purpose, agree to transfer its assets and liabilities to any other society which has agreed to accept them.

Transfer of assets of societies.

(2) An acceptance by another society under subsection (1) shall be evidenced by a resolution of not less than three-fourths of the members of that other society present and voting at a special general meeting called for that purpose.

(3) On the passing of a resolution referred to in subsections (1) and (2), the transferring society shall apply to the Director of Societies for cancellation of its registration and the transferee society shall submit to the Director of Societies a copy of its resolution agreeing to the transfer.

(4) A cancellation of registration and a submission of a resolution agreeing to accept a transfer shall be deemed to be sufficient to vest the assets and liabilities of the transferor in the transferee.

100. Notwithstanding sections 98 and 99, no amalgamation or transfer shall be effected —

Claims of objecting creditors.

- (a) unless the creditors of the societies concerned are given three months written notice of the proposals; and

- (b) where any creditor objects in writing to the proposal, any claims against the society are first satisfied.

Division of
society into two
or more societies.

101. (1) Any society may, with the approval of the Director of Societies, by resolution passed by three-fourths of the members present and voting at a special general meeting called for the purpose, resolve to divide itself into two or more societies; but any such resolution (hereinafter in this section referred to as a “preliminary resolution”) shall contain proposals for the division of the society among new societies into which it is proposed to divide the society and may specify the area of operation of, and the members who will constitute each of the new societies.

(2) A copy of the preliminary resolution shall be sent to all members and creditors of the society and a notice of the resolution shall also be given to all persons whose interests may be affected by the division of the society.

(3) Any member of a society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, indicate his intention not to demand the payment of monies due to him.

(4) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, indicate his intention not to demand the payment of monies due to him.

(5) Any other person whose interest may be affected by the division of a society may by notice given to the society object to the division unless his claim is satisfied.

(6) After the expiration of three months from the receipt of the preliminary resolution by all the members and creditors of the society and of the notice to other persons given under subsection (2), another special general meeting of the society of which at least fourteen clear days notice shall be given to its members, shall be convened for the consideration of the preliminary resolution.

(7) If at the special general meeting referred to in subsection (6), the preliminary resolution is confirmed by a resolution passed by not less than two thirds of the members present and voting either without changes or with such changes as in the opinion of the Director of Societies are not material, the Director of Societies may subject to

subsection (9) and section 10, register the new societies; and upon such registration, the original society shall be deemed to be dissolved and its registration cancelled.

(8) The decision as to whether or not any changes made in the preliminary resolution are material shall rest with the Director of Societies.

(9) At the special general meeting referred to in subsections (6) and (7), provision shall be made by another resolution for —

- (a) repayment of the share capital of all the members who have given notice under subsection (3);
- (b) satisfaction of the claims of all the creditors who have given notice under subsection (4);
- (c) satisfaction of the claims of such of the other persons who have given notice under subsection (5) as the Director of Societies decides, or securing their claims in such manner as the Director of Societies directs,

but no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (7).

102. The registration of new societies established pursuant to section 101 shall be deemed to be sufficient to vest the assets and liabilities of the original society, in the manner specified in the preliminary resolution as confirmed in accordance with subsections (6) and (7) of that section.

Effect of registration of new societies.

PART IX - WINDING UP AND ANCILLARY MATTERS

103. (1) Where the Director of Societies, after an inquiry has been held under Part VI, is of the opinion that the society ought to be wound up, he may make an order directing it to be wound up and may appoint a liquidator for that purpose and fix his remuneration, which shall be paid out of the funds of the society.

Winding up.

(2) Where no liquidator is appointed under subsection (1), the assets and liabilities of the society shall vest in the Director of Societies.

104. Where it is a condition of the registration of a society that it shall consist of at least ten members who are

Winding up by virtue of reduced membership.

above the age of fifteen years, the Director of Societies may by order in writing direct the society to be wound up if at any time it is proved to his satisfaction that the membership has been reduced to less than that number.

Voluntary
winding up.

105. (1) Subject to the approval of the Director of Societies, the members of a society may, by resolution supported by at least two-thirds of all the members, authorise the winding up of that society.

(2) The board shall cause a notice of a general meeting of the members to be sent to each member for the purpose of authorising the winding-up.

(3) The members of a society may, at the meeting to be held for the purpose of authorising the winding-up, appoint a liquidator.

(4) Where the Director of Societies —

- (a) receives notice, in a form satisfactory to him, or an authorisation to wind-up a society;
- (b) is satisfied that it is in the best interest of the society and its members,

he may approve the winding-up.

(5) An authorization approved pursuant to subsection (4) shall specify —

- (a) the assets and liabilities of the society;
- (b) the claim of any creditors;
- (c) the number of members of the society; and
- (d) the nature and extent of the members' interests in the society.

(6) Where a society is wound-up under this section, any surplus assets remaining after all claimants have been paid shall be utilised in the manner specified in section 110.

Power of director
pursuant to a
winding up
order.

106. (1) When pursuant to section 15, the Director of Societies cancels the registration of a society, the assets and liabilities of the society shall immediately vest in him and he shall have in respect of those assets and liabilities the powers of a liquidator under section 107.

(2) The Director of Societies may by notice published in the Gazette delegate his power as a liquidator to a suitably qualified person; but any such delegation shall

be revocable at will and shall not preclude the Director of Societies from exercising his power.

107. A liquidator appointed under section 103 shall have power to do any one or all of the following things — Powers of liquidator.

- (a) to take immediate possession of all assets belonging to the society and of all books, records and other documents relating to the business of the society so far as may be necessary for its winding-up and to raise on the security of the assets of the society the money requisite for this purpose;
- (b) to have disputes referred to the Director of Societies with recommendation that the dispute be settled by arbitration under section 92 and to institute and defend actions and other legal proceedings on behalf of the society in the name of his office;
- (c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Director of Societies and not exceeding five per cent;
- (d) to fix the time within which creditors shall have to prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;
- (e) to make any compromise or arrangement with creditors having and alleging to have any claims, present or future, for which the society may be rendered liable;
- (f) to compromise all claims or liabilities to calls and debts and liabilities capable of resulting in debts and all claims, present and future certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or winding up of the society on such terms as may be agreed and take any security for the

discharge of any such call, liability, debt or claim and give complete discharge in respect thereof;

- (g) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees or legal personal representatives of deceased members or by any officer to the assets of the society, such contribution shall include debts due from members or persons;
- (h) to determine by what persons and in what proportions the cost of liquidation shall be borne;
- (i) to arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Director of Societies;
- (j) to call such general meetings of the society as may be necessary;
- (k) to administer oaths, require the attendance of witnesses and other persons concerned with the management of the society and to require such persons to produce books, documents and other like matters relevant to the society.

Power of director to control liquidator.

108. A liquidator shall exercise his powers subject to the powers of the Director of Societies and the Director of Societies may —

- (a) rescind or vary an order made by a liquidator and make whatever new order he deems appropriate;
- (b) remove the liquidator from office;
- (c) call for all books, documents and assets of the society;
- (d) by order in writing limit the powers of the liquidator under section 107;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the accounts of the liquidator and authorise the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator; and

- (h) refer any subject to dispute between a liquidator and any third party to arbitration if that party consents in writing to be bound by the decision of the arbitrator.

109. When the affairs of a society have been wound up, or after the Director of Societies makes an order cancelling the registration of the society, the society shall be deemed to be dissolved from the date of such order.

Cancellation of registration consequent upon winding up.

110. After all the liabilities including the paid-up share capital of a cancelled society have been met, any surplus assets shall not be divided amongst its members but shall be devoted to any object contained in the bye-laws of the society and when no object is so contained, to any object of public utility determined by the general meeting of the society and approved by the Director of Societies, or such assets, as the members, so agree, may be assigned by the Director of Societies in whole or in part to either or both of the following —

Disposal of surplus assets.

- (a) an object of public utility of local interest;
 (b) a charitable purpose,

or may be placed on deposit with a bank or other financial institution approved by the Director of Societies until such time as a society with similar objects and bye-laws is registered when with the consent of the Director of Societies such surplus assets may be credited to the reserve fund of such new society.

111. (1) Where in the course of audits, inquiries or inspections as in Part VI or an audit under section 85, or a liquidation of a registered society, it appears that any sum of money is due to the society from any person who or which has taken part in the organization or management of the society, the Director of Societies may, of his own motion or upon the application of the board or liquidator or any creditor or contributor to the society, as the case may be, examine the conduct of such person or group of persons and make an order requiring him or such group to —

Power of director to surcharge officers etc. of a society.

- (a) repay with such interest as the Director of Societies thinks fit such money or part thereof;
 (b) restore such property or part thereof; or
 (c) contribute such sum as the Director of Societies thinks fit to the assets of the society by way of compensation.

(2) Before making an order under subsection (1) against any person or group of persons, the Director of Societies shall give that person or group of persons an opportunity to be heard and to show cause why such order should not be made.

(3) Where an order under subsection (1) has not been complied with, such sum may be recovered by the society on application to the Magistrate having jurisdiction in the registered place of business of the society, as though it were a fine imposed by sentence of a Magistrate, and in default of payment, the Magistrate, may impose a sentence of imprisonment of such person or group of persons, for a term not exceeding six months or until due payment is made or whichever is earlier.

(4) Neither the preceding provisions of this section nor the making of any order thereunder may be deemed or construed to preclude or otherwise affect the institution or maintenance of a prosecution against any person or group of persons referred to in subsection (1) in respect of any offences under any other written law.

Attachment of property.

112. Where the Director of Societies is satisfied that any person with the intent to defraud or delay the execution of any order that may be made under Part VI or any decision that may be given in a dispute referred to the Director of Societies or to any arbitrator is about to dispose of the whole or any part of his property, the Director of Societies may, unless adequate security is furnished, apply to the Magistrate of the district in which the property is situated for an order for the conditional attachment of such property and the Magistrate may, if he considers it to be in the interest of justice, make such an order.

Enforcement.

113. An order made by a liquidator or the Director of Societies under this part shall be enforced in all respects as an order made by a Magistrate in his civil jurisdiction.

Limitation of jurisdiction of civil court.

114. Except to the extent provided in this Part, no civil court shall have any jurisdiction, in respect of any matter concerned with the winding-up of a society under this Act.

PART X - APEX BODY

Establishment and constitution of Apex Body.

115. There shall be an Apex Body which shall be called the National League and which shall be composed of

such member representatives of all societies which exist in The Bahamas.

116. (1) The Apex Body shall be a registered society and shall co-ordinate, assist and promote all registered societies and shall perform such functions as may be determined by its constituent members. Functions of Apex Body.

(2) Without prejudice to subsection (1), the Apex Body shall have responsibility for the administration and management of the stabilization fund, the liquidity fund, and the development fund, as established by section 81.

(3) The Apex Body shall —

- (a) pay credit union market rates of return on reserves; and
- (b) invest in government securities or other government guaranteed investments or other investments approved by the Director of Societies.

117. The directors of the Apex Body shall be elected at the first meeting of that body and shall hold office for a period of one, two or three years in accordance with the bye-laws of the Apex Body. Management.

118. The Director of Societies may, from time to time, consult with and delegate to the Apex body, matters relating to the development of registered societies. Consultation of Director of Societies.

PART XI - CREDIT UNIONS

119. In this part —

- (a) “credit union” means a registered society carrying on the business of a credit union;
- (b) “liquid assets” means assets maintained by a credit union to ensure that it can meet its commitments with respect to loans, withdrawals of deposits, and payment of accounts to fund its operation.

Interpretation.

120. This part applies to every registered society that is organised and operated as a credit union. Application of this part.

121. (1) No credit union shall carry on any business that is contrary to this Act, the regulations or its bye-laws. Restriction.

(2) A credit union may, with permission of the Director of Societies, do all other acts and things as are incidental or conducive to or consequential to the attainment of its objectives.

Reserves and allowances.

122. (1) Every credit union shall make an allowance for doubtful loans in accordance with the requirements set out in the regulations.

(2) The directors of a credit union shall establish and maintain equity at a minimum of 10%, of total assets before any dividend is paid out.

(3) Subsection (3) of section 146 applies *mutatis mutandis* to this section.

Loan approval.

123. (1) Subject to this Act and the regulations, every loan must be approved in accordance with the policies established by the directors before any funds are advanced.

(2) A loan to a director, a credit committee member, a supervisory committee member, or any other committee member or an employee of a credit union or any person connected with one of them must be approved in the manner prescribed in the regulations.

(3) Any person who knowingly approves or grants a loan in contravention of this Act or regulations shall be held liable for any losses resulting to the credit union in connection with that loan.

Security for loans.

124. Subject to any restrictions that may be prescribed in the regulations, the credit union may take any security for loans that it considers advisable in keeping with sound business practices.

Loan limits.

125. (1) Loans may be made only to members.

(2) The bye-laws shall provide for limits on the amounts of loans to any one member or on any type of loans.

Reporting loans.

126. (1) Where a credit union is reporting loans on the balance sheet in its annual financial statements, it shall report the loans at their net estimated value after deducting the allowance for doubtful loans.

(2) Any advance given by way of overdraft or line of credit is deemed to be a loan for the purpose of the balance sheet and must be reported as a loan.

Interest on loans.

127. (1) The maximum intervals at which interest on loans must be paid may be prescribed in the regulations.

(2) Where the borrower has not paid the interest on his loan for a period determined in the regulations, the credit union shall not include that interest in income.

128. (1) Subject to section 78, a credit union may, without the authority, aid, assistance or intervention of any other person or official —

Deposits.

- (a) receive deposits from any person, whatever his age, status or condition in life whether or not that person is qualified by law to enter into ordinary contracts; and
- (b) pay any or all of the deposit and any or all of the interest on the deposit to or to the order of that person unless, before payment, the money so deposited is claimed by some other person —
 - (i) in any action or proceeding to which the credit union is a party and in respect of which service of a writ or other process originating such action or processing has been made on the credit union; or
 - (ii) in any other action or proceeding pursuant to which an injunction or order made by the court requiring the credit union not to make payment of the money or to make payment of it to a person other than the depositor has been served on the credit union, and in that case the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

129. (1) A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, pursuant to which any deposit or share is subject.

Credit Union not bound to see to trust.

(2) Where any deposit or share is subject to a trust of which the credit union has notice, the receipt or order —

- (a) of the trustee in whose name the deposit or share stands; or
- (b) if the deposit or share stands in the names of two or more trustees, all those trustees or any of them who, pursuant to the document creating the trust, may be entitled to receive the deposit or share,

is, notwithstanding any trust to which the deposit or share is subject, a sufficient discharge for the payment of any money payable in respect of the deposit or share, and the credit union is not bound to see to the application of any money paid on the receipt or order.

(3) Notwithstanding any neglect or omission on the part of a credit union to enter a proper description in its books, no executor, administrator, guardian, committee or trustee who is entered on the books of the credit union as a member, or who is described as representing a named estate, trust or trust beneficiary in any such capacity, is personally liable to the credit union with respect to the share that he represents.

(4) The estate, trust or trust beneficiary represented by a person described in subsection (3) continues to be liable to the credit union in the same manner and to the same extent as if the testator, minor, ward, person of unsound mind, beneficial trust or other trust beneficiary were entered on the records of the credit union as the holder of the shares.

Credit
committee.

130. (1) Every credit union shall have a credit committee which shall consist of no less than three members and no more than five members, who shall be determined in accordance with the procedure specified by section 17.

(2) The elected members of a credit committee may hold office for such term as the bye-laws provide or until their successors are elected.

(3) The credit committee shall consist of the number of members fixed by the bye-laws, which shall be not fewer than three.

(4) No person who is a member of the Supervisory Committee of the credit union shall be a member of the credit committee.

(5) No member shall be a member of the credit committee unless he has attained the age of eighteen years.

(6) A majority of the credit committee constitutes a quorum.

(7) A member entitled to vote at an election of members of the credit committee, if he votes shall cast thereat a number of votes equal to, or less than, the number of members of the credit committee to be elected, and the

member shall distribute the vote among the candidates in such a manner as he sees fit, but no candidate shall receive more than one vote from each member.

(8) Where a vacancy occurs in the credit committee, the board of directors may fill the vacancy until the next annual meeting of the credit union.

(9) The bye-laws of the credit union may provide for election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years.

131. The credit committee shall perform such duties as are prescribed by this Act, the regulations and the bye-laws of the credit union. Duties of credit committee.

132. When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the board who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union. Removal by membership of credit committee.

133. (1) The board may, upon such terms and conditions as it specifies, authorise the credit committee to approve loans to members. Officer to approve loan.

(2) The credit committee may, upon such terms and conditions as the board specifies, authorise the manager or other employee of the credit union to approve loans to members within a stated range.

(3) Any person authorised by the board to approve loans under subsection (1) or (2) shall submit a written monthly report to the credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

(4) The responsibilities and duties of any person authorised to approve loans under subsection (2) are concurrent with the responsibilities and duties of the credit committee.

134. (1) The credit committee shall — Credit committee reports.

- (a) meet at least once every month;
- (b) keep minutes of its meetings;

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- (c) submit a report to the board of directors stating —
 - (i) the number of loan applications received;
 - (ii) the number and category of loans granted;
 - (iii) the security obtained for such loans; and
 - (iv) applications denied and delinquent loans; and
 - (d) submit an annual report on the matters referred to in paragraph (c) to the annual meeting of the credit union.

(2) The members of a society may, by special resolution in a special meeting called for the purpose, remove a credit committee which fails to comply with paragraph (c) of subsection (1).

Removal by members.

135. (1) The members may, by resolution passed by two-thirds of the votes cast at a special general meeting called for that purpose, remove a member of the credit committee before the expiration of his term of office, and shall at that meeting elect another member in place of the first mentioned member for the unexpired portion of his term.

(2) The notice calling the meeting of members referred to in subsection (1) shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named in the notice.

(3) The member of the credit committee, removed under this section, has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by an attorney-at-law or an agent.

Supervisory committee.

136. (1) Every credit union shall have a supervisory committee which shall be elected by its members at the annual general meeting.

(2) The members of a supervisory committee shall hold office for such terms as the bye-laws provide and until their successors are elected.

(3) The supervisory committee shall consist of the number fixed by the bye-laws, which shall be not fewer than three.

(4) No person who is a member of the board of directors or credit committee or who is an employee of the

credit union shall be a member of the supervisory committee.

(5) No member shall be a member of the supervisory committee unless he has attained the age of eighteen years.

(6) A majority of the supervisory committee constitutes a quorum.

(7) A member entitled to vote at an election of members of the supervisory committee, if he votes, shall cast thereat a number of votes equal to or less than the number of members of the supervisory committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidates shall receive more than one vote from each member.

(8) Where a vacancy occurs in the supervisory committee, the supervisory committee may fill all vacancies until the next annual meeting of the credit union.

(9) The bye-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years.

137. The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities of the credit union and confirm the deposits of the members and perform such other duties as are prescribed by this Act, the regulations and the bye-laws of the credit union.

Duties.

138. When a member of the supervisory committee fails to attend three consecutive meetings of the committee without in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Removal by membership of supervisory committee.

139. The board of directors may appoint such persons as it considers necessary to assist the supervisory committee in its duties, and may pay those persons such remuneration as it thinks fit.

Clerks.

140. (1) When the supervisory committee has reasonable cause to believe that the funds, securities or

Misappropriation, etc.

other property of the credit union have been misappropriated or misdirected, or in the event that the bye-laws of the credit union, this Act or the regulations have been contravened by the board of directors, the credit committee or a member thereof or an officer or employee engaged by the board of directors or, the supervisory committee shall forthwith inform the Director of Societies in writing.

(2) The supervisory committee shall appoint an auditor or some other body to assist it in determining whether any of the funds, securities or other property of the credit union have been misappropriated or misdirected and the remuneration of any auditor or other body so appointed shall be determined by the supervisory committee and paid by the credit union.

(3) In the event of a misappropriation or misdirection or a suspected misappropriation or suspected misdirection as referred to in subsection (1), the supervisory committee may suspend any member of the board of directors on approval of the Director of Societies in writing.

(4) The supervisory committee shall forthwith request the board to summon a special general meeting of the members to be held within fourteen days after the suspension referred to in subsection (3); and where the board fails to summon such a meeting the supervisory committee shall summon the meeting within seven days after the expiry of the period of fourteen days.

(5) The supervisory committee shall report to the general meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension.

(6) The members of the credit union may, by resolution, dismiss from office any person suspended under subsection (3), and, when the members of the credit union do not dismiss from office any person so suspended, that person shall be reinstated forthwith.

Meetings.

141. (1) The supervisory committee shall meet at least every two months, and where no auditor has been appointed pursuant to section 85, shall meet every two months, and shall at each such meeting examine the affairs of the credit union.

(2) The supervisory committee shall keep minutes of its meetings and shall —

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- (a) within seven days of each meeting report the results thereof in writing to the board of directors; and
 - (b) submit a written report to the annual meeting of the members of the credit union.

142. (1) The members may, by resolution passed by two-thirds of the votes cast at a special general meeting duly called for the purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by vote cast at the meeting elect another member in his stead for the unexpired portion of his term.

Removal by members.

(2) The notice calling the meeting of members referred to in subsection (1) shall state that the purpose of the meeting is to remove the member of the supervisory committee who is named in the notice.

(3) The member of the supervisory committee removed under this section has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by an attorney-at-law or an agent.

PART XII – CONSUMERS’ SOCIETIES

143. In this Part, “consumers’ society” means a registered society whose primary purpose is to purchase, procure, process, manufacture, exchange, hire or deal in goods or services for sale at retail to its members who are to be the primary users or consumers of those goods and services.

Interpretation.

144. This Part applies to every society that is organised or operated as a consumers’ society.

Application of this Part.

145. Subject to the prior approval of the Director of Societies, a society may provide in its bye-laws that no more than one-third of its directors may be employees.

Restrictions of directorship.

146. (1) The directors of a consumers’ society shall set aside not less than twenty five percent of any surplus in a reserve before paying a dividend.

Reserve.

(2) When the amount of the reserves as required by subsection (1) equals or is more than twenty five percent of the total assets of the society as shown in its audited financial statement for the financial year, the directors need not set aside any part of the surplus in a reserve.

(3) The Director of Societies may exempt a consumers' society from subsections (1) and (2) where he considers it appropriate to do so.

(4) A consumers' society may charge against its reserve required by subsections (1) and (2) —

- (a) net losses resulting from its business operations; and
- (b) any losses resulting from revaluation or sale of its assets.

PART XIII - HOUSING SOCIETIES

Interpretation.

147. In this Part —

- (a) “housing society” means a registered society whose primary purpose is to provide housing units for occupancy by its members as nearly as possible at cost;
- (b) “housing charges” means the fee charged by a housing society to its members to cover its costs of providing housing accommodation; and
- (c) “housing unit” means housing accommodation intended for individual or family use.

Application of this Part.
Relationship with members.

148. This Part applies to every housing society.

149. The relationship between a housing society and its members is not a relationship between a landlord and his tenants.

Bye-laws not to be amended without consent of director.

150. Where the bye-laws of a society provide that it is a housing society or that this Part applies to the society, the society may not repeal or amend that provision of the bye-laws without the consent of the Director of Societies.

Bye-laws.

151. The bye-laws of a housing society must, in addition to the matters required to be set out therein by section 11, include the following —

- (a) the manner in which each member may be required to furnish capital for the purposes of the society;
- (b) the manner in which a member may be required to pay for housing charges or other reserves;
- (c) the basis for fixing the amount of housing charges;

- (d) subject to section 29, the manner of withdrawal by a member and the repayment of the members' interests in the society; and
- (e) the rules governing any leases of housing units by members to non-members.

152. Where a housing society has a share capital, that society shall not pay any dividend on the share capital to its members. No interest on share capital.

153. (1) The directors of a housing society shall set aside not less than twenty-five percent of any surplus in a reserve. Reserves.

(2) When the amount required to be set aside pursuant to subsection (1) is equal to or is more than twenty-five percent of the total assets of the society as shown in the audited financial statement for the financial year, the directors need not set aside any part of the surplus in a reserve.

(3) A housing society may —

- (a) invest or deposit its reserve in any registered society approved by the Director of Societies;
- (b) deposit its reserve in any bank registered under the Bank and Trust Companies Regulation Act; Ch. 316.
or
- (c) invest its reserve in any other manner authorised by the Trustee Act. Ch. 176.

(4) A housing society shall use its reserve as required pursuant to subsection (1) to cover —

- (a) operating losses; or
- (b) any contingencies that the directors consider are necessary to the operation of the society.

(5) Any gains resulting from the sale of real property —

- (a) must be set aside as a reserve fund for unforeseen operating losses or other contingencies, or for the maintenance or further development of the services provided by the society; or
- (b) must, where the matters authorise at an annual meeting, be donated by the directors to one or more organizations, associations or groups with

objectives of a benevolent or charitable nature or housing society with similar objectives.

Non-application
of Landlord and
Tenant Act.
Ch. 161.

154. The Landlord and Tenant Act does not apply to the relationship between —

- (a) the housing society; and
- (b) its members and any person whose membership in the housing society has been terminated.

Right to
possession
terminated.

155. (1) Where a person's membership in a housing society is terminated, any right of that person to possess or to occupy residential premises acquired by virtue of membership in the society is terminated.

(2) Where a person's membership in a housing society is terminated and the member does not give up possession of the housing unit he occupies, the housing society may apply to the court to recover possession or to recover any arrears of housing charges.

Abandoned
goods.

156. (1) Where a member —

- (a) has his membership terminated or has vacated or abandoned the housing unit formerly occupied by him; and
- (b) has left property in the housing unit, the housing society may apply to the Magistrate's Court for the district where the housing unit is situated for an order authorising it to remove the property from the housing unit and sell or otherwise dispose of it.

(2) The Magistrate may make an order pursuant to subsection (1) where he is satisfied that the housing society has made a reasonable effort to locate the former member.

(3) Where a housing society sells or otherwise disposes of property pursuant to any order made under subsection (2), it shall pay into the Magistrate's Court, to the credit of the former member, any remaining proceeds of the disposition after deducting —

- (a) any amount with respect to costs incurred by it relating to the disposition that it would be authorised to retain if the property were goods sold pursuant to distress for housing charges; and
- (b) any arrears of housing charges and damages that the Magistrate allows.

(4) Where a former member does not claim the remaining proceeds described in subsection (3) within three months after the date the money was paid into the Magistrate's Court, the money shall be paid into the Stabilization Fund.

(5) Where a housing society removes, sells or otherwise disposes of property pursuant to an order made under subsection (2), the housing society is not liable to any action taken by the former member with respect to the removal, sale or disposition.

PART XIV - INDUSTRIAL SOCIETIES

157. In this Part, “industrial society” means a society whose primary purpose is to operate an enterprise in which its members are the workers necessary for the operation. Interpretation.

158. This Part applies to every registered society that is organised or operated as an industrial society. Application.

159.(1) In an industrial society, seventy-five percent of all employees must be members of the society and seventy-five percent of the employees of a member society must be members of the member society. Member employee.

(2) Subject to subsection (3), no industrial society shall sub-contract out more than fifty percent of its work.

(3) Where an industrial society applies to the Director of Societies, he may allow the industrial society to sub-contract out more than fifty percent of its work.

160. In addition to the matters required to be set out in the bye-laws pursuant to section 11, the bye-laws of an industrial society must include — Workers' bye-laws.

- (a) conditions of admission, expulsion or suspension of its members;
- (b) a procedure for laying off members when there is a lack of work and a procedure of recall to work;
- (c) remuneration of workers involved in the day-to-day work of the society; and
- (d) allocation of bonus among members.

161. No industrial society may be registered where the acquisition of goods for resale to the public is one of its principal objects stated in its bye-laws. Restriction on registration.

Bonus based.

162. Notwithstanding section 84 when allocating among creditors or paying a bonus to the members of an industrial society, the directors may take into account the contribution of each member.

Employees may be directors.

163. Notwithstanding any other provision of this Act, the majority of directors of an industrial society may be employees of the society.

PART XV - FORMER-ACT SOCIETIES

Former-Act society.

164. (1) Upon the commencement of this Act, all corporate instruments of a former-Act society and all cancellations, suspensions, proceedings, acts, registrations and things, lawfully done under any provision of the former Act are presumed to have been lawfully done under this Act, and continue in effect under this Act as though they had been lawfully done under this Act.

(2) For the purposes of this section “lawfully done” means to have been lawfully granted, issued, imposed, taken, done, commenced, filed or passed, as the circumstance require.

(3) For the purposes of this Part —

(a) “former Act” means the Co-operative Societies Act in force immediately before the commencement of, and repealed by this Act;

(b) “former-Act society” means a society registered pursuant to the former Act.

Effect of corporate instrument.

165. (1) Notwithstanding any other provisions of this Act, but subject to subsection (2), if any provision of a corporate instrument of a former-Act society lawfully in force immediately before the commencement of this Act is inconsistent with, repugnant to, or not in compliance with this Act, that provision is not illegal or invalid only by reason of that inconsistency, repugnancy or non-compliance.

(2) Any act, matter or proceeding or thing done or taken by the former Act society or any director, member or officer of the society under a provision mentioned in subsection (1) is not illegal or invalid by reason only of the inconsistency, repugnancy or non-compliance mentioned in that subsection, or by reason of being prohibited, or not authorised by the law as it is after commencement of this Act.

166. (1) Every former-Act society must, within one year after the commencement of this Act, apply to the Director of Societies for a certificate of continuance under this Act. Continuation as society.

(2) A fee to defray administration costs may be prescribed in respect of an application and certificate of continuance under this Part.

167. Within the period referred to in section 166 (1), any amendments to, or replacement of, the bye-laws of a former-Act society must be made in accordance with this Act. Amending instrument.

168. Bye-laws of continuance may, without so stating in the bye-laws, effect any amendments to the bye-laws of a former-Act society if the amendment is an amendment that a society registered under this Act can make in its bye-laws. Bye-laws.

169. (1) Upon receipt of an application under this Part, the Director of Societies may, and, if the applicant complies with all reasonable requirements of the Director of Societies to have the continued society accord with the requirements of this Act, the Director of Societies must, issue a certificate of continuance to the former-Act society, in accordance with section 166. Certificate of continuance.

(2) On the date shown in the certificate of continuance —

- (a) the former-Act society becomes a society to which this Act applies as if it had been registered under this Act;
- (b) the bye-laws of continuance are the bye-laws of registration of the continued society; and
- (c) except for the purposes of subsection (1) of section 164, the certificate of continuance is the certificate of registration of the continued society.

170. When a former-Act society is continued as a society under this Act — Preservation of society.

- (a) the property of the former-Act society continues to be the property of the society;
- (b) the society continues to be liable for the obligations of the former-Act society;
- (c) an existing cause of action, claim or liability to prosecute is unaffected;

- (d) a civil, criminal or administrative action or proceeding pending by or against the former-Act society may be continued by or against the society; and
- (e) a conviction against, or ruling, order or judgement in favour of or against, the former-Act society may be enforced by or against the society.

Non-
continuance.

171. When a former-Act society fails to apply to the Director of Societies for a certificate of continuance within the time limited therefor under section 166, then, after the expiration of that period —

- (a) the former-Act society may not, without leave, sue in any court, but may be made a defendant to a suit;
- (b) no bonus or dividend shall be paid to any member of the former-Act society; and
- (c) every director of the former-Act society is liable to a penalty of one hundred dollars a day for each day during which the former-Act society carries on its undertaking thereafter.

Effect of earlier
references.

172. (1) A reference in any bye-law of any society to the former Act or any procedure under the former Act is, in relation to any former-Act society continued under this Act to be construed as a reference to the provision or procedure of this Act or procedure thereunder that is the equivalent provision or procedure under this Act.

Ch. 2.

(2) Without affecting the operation of the Interpretation and General Clauses Act, when there is no equivalent provision in this Act to the provision or procedure in or under the former Act referred to in the bye-laws, the provision or procedure of the former Act is to be applied, and stands repealed to the extent necessary to give effect to that reference in the bye-laws.

PART XVI - OFFENCES

Corrupt practices
and bribery.

173. (1) Any member, director, committee member, agent or employee of a society who corruptly accepts, agrees to accept, obtains or attempts to obtain whether for himself or another, any gift or consideration as an inducement or reward for doing or forbearing to do any act relating to the business of the society or for showing favour or disfavour to any person in relation to the business of the

society and any person who corruptly gives, agrees to give or offers such gift or consideration to any member, director, committee member, agent or employee of a society as such inducement or reward, commits an offence and is liable on summary conviction to a fine of two thousand dollars or to a term of imprisonment for five years.

(2) In this section, “consideration” includes valuable consideration of any kind.

174. (1) Any person who obtains possession of any property of or is granted any loan by a society by false representation or other corrupt means or wrongfully withholds or misapplies any such property or loan or willfully applies any part thereof to purposes other than those directed or expressed in the bye-laws of such society or authorised in this Act or the regulations, commits an offence and is liable on summary conviction to a fine of one thousands dollars.

Falsely obtaining property of society.

(2) In any proceedings under this section the person accused may in addition to any penalty imposed be ordered to deliver up any property or repay any sum of money to which the proceedings relate and pay the cost of the proceedings.

175. (1) A society or any officer or member thereof or any other person who fails without reasonable cause or willfully, neglects or refuses to comply with any requirements of this Act or the regulations, any order given for the purposes of and in accordance with, the Act or to furnish any information or who purporting to comply with any such requirement knowingly furnishes false information commits an offence.

Failure to comply with the Act, etc.

(2) Any person who willfully or without reasonable cause disobeys any summons, order or direction lawfully issued under this Act or the regulations commits an offence.

(3) Any officer or member of a society who willfully contravenes the bye-laws of the society relating to his duties or functions as such officer or member commits an offence.

(4) A person who commits an offence under this section is liable to a fine of two thousand dollars.

176. (1) Any person who fraudulently or clandestinely removes any property comprised in a charge created in

Dealing in property subject to charge.

favour of a society under section 42 from the place where such property was situated at the time of the execution of the charge or who knowingly disposes of or deals with or attempts to dispose of or deal with such property without first obtaining in writing leave of the society, commits an offence and is liable on summary conviction to a fine of one thousand dollars and to a term of imprisonment for one year.

(2) Where any person who has received a loan from a society is convicted of an offence under this section there may be imposed on him notwithstanding any penalty specified in subsection (1) an additional penalty equal to such amount of the loan with interest as has not been repaid to the date of the conviction and the payment of such additional penalty shall discharge the liability of the borrower to repay the loan.

(3) Where the court has imposed an additional penalty specified in subsection (2) and that penalty is not paid, the court may order that the person convicted under this section and who has defaulted in the payment of the additional penalty be imprisoned for six months in respect of such default.

Offences with respect to reports.

177. (1) A person commits an offence, who makes or assists in making a report, return, notice or other document, required in this Act or the regulations to be sent to the Director of Societies or to any other person, that —

- (a) contains an untrue statement of a material fact;
- (b) omits to state a material fact required in the report or necessary to make a statement contained in the report not misleading in the light or the circumstances in which it was made.

(2) A person who commits an offence under subsection (1) is liable on summary conviction —

- (a) in the case of an individual, to a fine of five thousand dollars or to a term of imprisonment of one year or to both;
- (b) in the case of a person other than an individual, to a fine of twenty thousand dollars.

(3) Where the person referred to under subsection (1) is a body corporate and whether or not the body corporate has been prosecuted or convicted, any director or officer of the body corporate who knowingly authorises, permits or

acquiesces in the offence also commits an offence and is liable on summary conviction to a fine of five thousand dollars or to a term of imprisonment of one year or to both.

- (4) No person commits an offence under subsection (1) or (3) where the untrue statement or omission —
- (a) was unknown to him; and
 - (b) in the exercise of reasonable diligence, could not have been known to him.

178. Every society and every officer or member thereof or other person who commits an offence under this Act for which no penalty is expressly provided is liable on summary conviction to a fine of two thousand dollars and in the case of a continuing offence to a further fine of one hundred dollars for each day that the offence continues after conviction thereof.

Penalty for offences not otherwise provided for.

PART XVII - MISCELLANEOUS

179. Unless otherwise provided, a party aggrieved or adversely affected by an order or decision of the Director of Societies under this Act may appeal from the decision or order to the Minister within two months of such order or decision and a further appeal shall lie to a judge in Chambers within one month of such order or decision of the Minister.

Appeals.

180. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the regulations, be received in any legal proceedings, civil or criminal, as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, to the same extent as, the original entry itself is admissible.

Evidence of documents and of entries in books.

(2) No officer of any such society, in any legal proceedings to which the society is not a party can be compelled to produce any of the books of the society, the contents of which can be proved under subsection (1) or to appear as a witness to prove any matters, transaction or accounts therein recorded, unless the court for special reasons so directs.

(3) Every copy of rules or other instruments or documents, and every extract of an instrument or

document, bearing the seal or signature of the Director of Societies, shall be received in evidence without further proof; and every document purporting to be signed by the Director of Societies under this Act shall, in the absence of any evidence to the contrary, be received in evidence without further proof of the signature.

Exemption from stamp duties and other fees.

181. Every society registered under this Act is exempt from any stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of such society or by an officer or member relating to the business of such society, any class of such instruments, are respectively chargeable.

Non-application of certain Acts.
Ch. 308.
Ch. 313.
Ch. 6.
Ch. 316.
Ch. 347.
Regulations.

182. The Companies Act, The Friendly Societies Act, the Minors Act, the Banks and Trust Companies Regulation Act, the Insurance Act and the Mutual Funds Act¹ do not apply to societies registered under this Act.

183. (1) The Minister may make such regulations as may be necessary for the purpose of carrying out or giving effect to the objectives and provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made requiring the payment of and prescribing the amount of any fee with respect to —

- (a) the filing, examination or copying of any document; or
- (b) any action that the Director of Societies is required or authorised to take pursuant to this Act;
- (c) prescribing the procedures for appeals to the Director of Societies pursuant to section 92;
- (d) exempting any society from any provision of this Act; and
- (e) prescribing any other matter or thing required or authorised to be prescribed by this Act.

Repeals.
17 of 1974.

184. (1) The Co-operative Societies Act is repealed.

(2) Notwithstanding subsection (1), where a society is being dissolved or liquidated and dissolved pursuant to the former Act, that Act continues to apply to that society.

¹ Mutual Funds Act repealed by Investment Funds Act, Ch. 369A.

185. Instruments or transactions relating to any loan guaranteed under this Act shall be exempt from the payment of stamp duty under the Stamp Act.

Exemption from stamp duty.

Ch. 370

186. (1) Any society may, subject to this Act and any regulations made thereunder, amend its bye-laws including the bye-law which declares the name of the society.

Power to amend bye-laws.

(2) No amendment of the bye-laws of a society shall be valid until that amendment has been registered under this Act, for which purpose three copies of the amendment shall be forwarded to the Director of Societies.

(3) If the Director of Societies is satisfied that any amendment of the bye-law, is not contrary to this Act, he may register the amendment.

(4) Where the Director of Societies refuses to register an amendment of a bye-law, an appeal shall lie to the Registered Societies Appeal Tribunal whose decision shall be final.

(5) An amendment which changes the name of the society shall not affect any right or obligation of the society or of any of its members or past members and any legal proceedings pending may be continued by or against the society under its new name.

(6) Where the Director of Societies registers an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence of the fact that the amendment has been duly registered.

PART XVIII - TRANSITIONAL

187. All societies which prior to the commencement of this Act were duly registered under any enactment shall be deemed to be registered under this Act.

Societies deemed to be registered.